

**SUBCONTRACTING AGREEMENT**

**for the**

**Furnish and Installation of the Structural Steel, Trusses, Decking, Stair tower & Associated work**

**At 306 Rodney Street Brooklyn, NY 11211**

**by and between**

**Parkview Builders Inc**

**("Contractor Or CM")**

**and**

**Little Washington Fabricators, Inc**

**("Subcontractor")**

**EXHIBIT A**

## **CONSTRUCTION SUBCONTRACTING AGREEMENT**

THIS SUBCONTRACTOR AGREEMENT ("Agreement") is made effective as of 08/10/2020 and amended on 10/12/2020 by and between *Parkview Builders Inc.*, a New York corporation having an office located at *234 Broadway, 3rd floor, Brooklyn, New York 11211* ("Contractor or CM"), and Little Washington Fabricators, Inc having an office located at 52 Mill Street, Christiana, PA 17509 ("Subcontractor").

### **RECITALS**

A. The Contractor intends to furnish and install the products listed in the scope of work (the "Work") at the real property located at **306 Rodney Street, Brooklyn, NY 11211**. The Contractor intends for the Project to be consistent in design and quality to similar-use, first-class buildings located in the area. Contractor has been retained by Owner to act as General Contractor or CM on the Project.

B. Subcontractor desires to perform certain aspects of work required to construct the Project and has submitted a proposal to Contractor for the **Furnish and Install all material, labor, equipment and supervision to complete the Structural Steel, 18 ga. decking, shear studs, trusses, trellis, trellis slats, egress stairs , railings and miscellaneous steel scope** and associated Work for the Project.

C. Subcontractor represents to Contractor that it is fully familiar with the details of the contract documents work described in the Scope of Work, annexed hereto as Exhibit A, the design of the Project, and has all of the necessary expertise, staff and resources required to complete such work in a first-class manner, and that it possesses the skill and competency, as well as the financial ability, to complete such work expeditiously. Subcontractor represents that it has visited and carefully examined the Project and is familiar with the existing conditions and difficulties that may affect the execution of its work and has taken these factors into consideration in agreeing upon the Contract Amount (see 2.11). Subcontractor agrees that it will take all necessary steps to avoid damaging the existing areas that are to remain. Any damage caused by Subcontractor will be repaired within seventy-two (72) hours by Subcontractor at no additional cost to Contractor. If Subcontractor fails and/or cannot repair any damage that it caused to existing work, Subcontractor agrees that the reasonable costs and/or damages incurred by Contractor for the damage caused by Contractor's actions shall constitute an offset to any monies otherwise due Contractor. Subcontractor is cautioned that due to the location of the Project, it may encounter certain areas of special coordination concerning, among other things, traffic congestion, building access and material delivery. It is understood that Subcontractor is aware of these conditions and hereby waives and shall not attempt to seek additional compensation for any hardships that may arise due to such special measures and precautions regarding same, including, but not limited to, any additional costs and/or damages for re-sequencing of work, delayed work, special handling of materials and/or labor inefficiencies.

D. The Contract Documents consist of this Agreement and attached Exhibits, subsequent amendments to this Agreement, modifications and change orders to this Agreement, the current issuance of the Construction Documents (i.e., all documents, plans, specifications, conditions, addenda, modifications and other documents describing the Work, defined below) and all subsequent issuances of those Construction Documents, including the issuance marked "for construction" or similarly noted. These Contract Documents are incorporated into, and are fully a part of, this Agreement. The intent of this Agreement is to set forth the

terms and conditions for Contractor's performance at the Project subject to all applicable laws governing the terms and conditions of construction agreements and their performance. The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Subcontractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Subcontractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated and intended results. In the event of an ambiguity, discrepancy, or inconsistency between the Contract Documents, the Subcontractor shall immediately inform the Architect, Contractor and Owner of such ambiguity, discrepancy or inconsistency. In the event of a direct inconsistency, conflict, or discrepancy between or among the Contract Documents, the Architect shall make an interpretation of the contract requirements based on the following priorities, taking into consideration the date of issuance of such documents (with a later date having precedence over an earlier date):

1. Modifications issued after execution of the Agreement (specifically, (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, (4) a Field Order, or (5) a written order for a minor change in the Work issued by the Architect)
2. Bulletins issued by the Architect after execution of the Agreement
3. Approved Shop Drawings (as long as such Shop Drawings achieve, maintain, and are consistent with the design intent) (if said Shop Drawings deviate from the intent of the design, as determined by the Architect, then the Construction Manager and the appropriate Trade Contractor(s) shall be responsible for any associated costs to achieve such design intent)
4. Sketches (as issued during the Project and as delineated in Exhibit F to the Agreement)
5. Value Engineering List if approved by Ownership.
6. Site Safety Plans.
7. DOT Logistics Plans.
8. Drawings (delineated in Exhibit J to the Agreement) (large scale drawings governing over small-scale drawings)
9. Specifications (delineated in Exhibit J to the Agreement)
10. Agreement (including exhibits attached thereto)
11. General Requirements of the Contract (including exhibit attached thereto)
12. Addenda issued prior to execution of the Contract
13. Other documents identified in the Agreement as a Contract Document

In the case of a direct inconsistency, conflict, or discrepancy within any Contract Document not clarified by addendum, bulletin, or modification, the Subcontractor shall: (i) provide the better quality and greater quantity of work in accordance with the Architect's interpretation; and (ii) comply with the more stringent requirement in accordance with the Architect's interpretation, either or both at no additional cost to the Owner.

E. The Project is to be constructed with the financial assistance of one or more financial institutions or investors (collectively, the "Lenders").

NOW, THEREFORE, based on the exchange of valuable consideration, receipt of which is acknowledged, and the Recitals set forth above, which form a part of this Agreement, Contractor and Subcontractor agree to the following terms and conditions.

## **TERMS AND CONDITIONS**

### **ARTICLE 1**

#### **Work**

**1.1** Subcontractor agrees to perform the work and furnish all of the labor, materials, supplies, supervision, equipment, scaffolding, layouts, engineering, shop drawings, permits, temporary utilities, accessories, tools, services, overtime, testing, transportation, unloading, handling, hoisting, applicable insurances, bonds, management and all other items required or reasonably implied by this Agreement in connection with the satisfactory performance, execution and completion of the Work for the Project described in the components of the Contract Documents together with all other work reasonably implied or required by the Contract Documents that is necessary to complete such work in a first-class manner (the Work). No deviation from the Work shall be permitted without Contractor's prior written consent.

**1.2 TIME IS OF THE ESSENCE TO THIS AGREEMENT.** Subcontractor shall commence the Work immediately upon receiving written notice from Contractor and shall diligently prosecute and complete the Work in accordance with the Project Schedule attached as Exhibit B, subject to adjustments made under this Agreement. If adjustments are made to the Project Schedule pursuant to this Agreement, the term "Project Schedule" shall mean the adjusted Project Schedule. In order to ensure compliance with the Project Schedule, Subcontractor shall seek all required clarifications of the Contract Documents on a prompt and timely basis, place all orders and plan all fabrication for long-lead times in time for delivery to accommodate the Project Schedule and take all other steps required to ensure its timely performance of the Work. Subcontractor shall provide sufficient manpower to complete the Work on or before the completion date set forth in the Project Schedule, including, but without limitation, increasing its forces and working overtime and/or on Sundays (no Saturdays or Jewish holidays per attached calendar) at no additional cost to Contractor, if deemed reasonably necessary by Contractor to meet the completion date. In the event Subcontractor cannot, or does not provide the additional manpower as requested, Contractor may retain other workers to perform such work and hold Subcontractor responsible for the costs and expenses associated therewith.

### **ARTICLE 2**

#### **Payment to Subcontractor**

**2.1** In consideration for the full and timely performance of the Work in strict accordance with the Contract Documents, Contractor shall pay to Subcontractor the sum of One Million Fifty Thousand Dollars and 00/100 USD ( \$1,050,000.00) The Contract Amount may be adjusted under this Agreement. If that occurs, the term "Contract Amount" shall mean the adjusted Contract Amount. The Contract Amount shall be paid by check subject to collection and shall be subject to additions and deductions as provided for in this Agreement. The Contract Amount includes all present and prospective local, state, federal and other taxes imposed by law based upon labor, services, materials, equipment and other items acquired or used in

connection with the Work, including, but not limited to, sales, use and personal property tax payable by, or levied against, Contractor. Where the law requires any such tax to be stated and charged separately, the total cost to Contractor of all items included in the Work and all associated taxes shall not exceed the Contract Amount.

2.2 Prior to the commencement of the Work and within two weeks of the contract execution, Subcontractor shall submit to Contractor for approval, a Schedule of Values, attached as Exhibit C. The Schedule of Values shall address and assign an appropriate value to each of the various parts of the Work. The total amount set forth in the Schedule of Values shall equal the Contract Amount. The Schedule of Values shall be made out in a form acceptable to Contractor and in such detail as Contractor may require. The approved Schedule of Values shall be the basis for periodic payments of the Contract Amount.

2.3 Subcontractor shall submit to Contractor on the 15<sup>th</sup> day of each month, a pencil copy of the Requisition for Payment. This will be projected through to the end of the month. No later than the last day of each month a notarized payment requisition based on the Lender & Owner approved pencil copy for partial payment of the Contract Amount shall be submitted to Contractor. The requisition shall be based on the approved Schedule of Values and shall seek payment only for the proportionate value of the Work completed, less (a) **retainage of 10% of the value of the Work completed and All line items reduced an additional 17.5 % . A new line item at the bottom of the SOV will reflect the final payment of the 17.5% after the completed project has been signed off and all work and any open items have been completed. (a.1) All payments for installation or erection as indicated on the SOV Exhibit C will be made as a two party check to Little Washington Fabricators & Guytec Steel Inc.** (b) all prior amounts requisitioned by Contractor. Contractor shall adjust the requisition, if necessary, to assure that the requisition accurately reflects the current percentage of completion of the Work as well as any adjustment required by Contractor, including, but not limited to, adjustments to reflect accurate estimated completion by Contractor. In the event of an adjustment, Subcontractor shall recalculate an approved amount for the requisition. Contractor shall approve or disapprove the requisition, in whole or in part, within twenty (20) business days from the date of its submission. Contractor shall not be required to provide a written statement to Subcontractor describing those items in the requisition not being approved. Contractor shall be entitled to deduct or withhold all amounts permitted by this Agreement. The balance of the approved requisition amount, less the deductions and withholdings, if any, shall be paid to Subcontractor no later than forty five (45) calendar days—after the date of approval of the requisition and/or seven (7) calendar days after Contractor's receipt of payment from the Owner or Lenders (whichever is later), provided Subcontractor continues to complete the Work properly and in a timely manner, and Subcontractor is otherwise complying fully with its obligations under this Agreement. Subcontractor shall receive and hold all payments under the Contract in trust in accordance with Article 3-A of the New York Lien Law, and other applicable law, and promptly pay amounts owed to subcontractors, suppliers of materials or equipment and all others engaged by Subcontractor in connection with the Work. No interest shall accrue on the amount due under a requisition submitted by Contractor.

2.4 No requisition shall be submitted or approved unless it is accompanied by the following documentation: releases and lien waivers executed by Subcontractor and each of Subcontractor's subcontractors and suppliers covering labor performed and materials and equipment furnished through the last day covered by the requisition, in the attached hereto as Exhibit D, or in form acceptable by Contractor or Owner's Lender, which shall become effective upon payment of the requisition, and such other

information and substantiation as Contractor may reasonably require regarding the nature and extent of all obligations incurred by Subcontractor in connection with the Work. It is the unequivocal intention of the parties that the waivers and releases provided for interim payments under this Article shall constitute a release and waiver of all claims for damages or additional compensation of every description and an agreement by Subcontractor to the effective date of the waiver and release. To the extent of any conflict between the waivers and releases and this Article, Contractor and Subcontractor agree that this Article shall control.

**2.5** After substantial completion, which shall not occur until all the Work, other than punch list work, is complete, at the earliest, Subcontractor may submit a requisition to Contractor for an amount equal to the unpaid Contract Amount, less one and one-half times the value of the items of Work remaining to be completed, unless some greater withholding is required under the Contract Documents. From this amount, Contractor shall be entitled to deduct or withhold all amounts permitted by this Agreement. The balance of the requisition amount, less the deductions and withholdings, if any, shall be paid to Subcontractor no later than forty-five (45) calendar days after substantial completion, provided Subcontractor continues to complete the Work properly and in a timely manner, and Subcontractor is otherwise complying fully with its obligations under this Agreement.

**2.6** Final payment shall be made after the Work to be complete and Subcontractor has presented the following documents, if applicable: (a) evidence satisfactory that Contractor's indebtedness in connection with the Work has been or will be fully paid; (b) complete waivers and releases of liens and all governmental signoffs, executed by Subcontractor and its subcontractors and suppliers, in the form attached as Exhibit E, or in a form required by the Contractor or Lenders; (c) Contractor's Warranty Certificate (d) a complete set of "as-built" drawings, in the customary detail, reflecting the final articulation of the Work; (e) all operating, training and procedure manuals and instructions; (f) completion of all training and demonstrations required with respect to the Work under the Contract Documents; (g) a Letter of Compliance, in the form and detail, executed by an authorized officer of Subcontractor, stating that all Work has been accomplished in accordance with the requirements of the Contract Documents and the requirements of all applicable federal, state and local laws, rules, regulations and ordinances; and (h) all warranties required by the Contract Documents with respect to the Work in writing. Subject to Subcontractor's performance of the condition's precedent for final payment, final payment shall be made within forty-five (45) calendar days of final approval of the Work or seven (7) days after Contractor's receipt of funds from the Owner or Lenders, whichever is later

**2.7** Payment of all or part of the Contract Amount shall not constitute evidence of proper performance by Subcontractor or acceptance by Contractor of latent or patent defects in work, materials or equipment. Further, entrance and use of the Project by Contractor shall not constitute acceptance of any part of the Work.

**2.8** Payment may be withheld from Subcontractor for failing to comply fully with the Contract Documents and this Agreement, including, but not limited to, (a) failing to remedy defective work or materials installed as part of the Work, (b) causing damage to the Project, (c) causing or permitting the filing of liens or claims by third parties, (d) failing to make prompt payment to subcontractors and suppliers for labor, materials or equipment, (e) causing damage to the work, materials or equipment belonging to

Contractor or any other Subcontractor at the Project, (f) failing to prosecute the Work in accordance with the Project Schedule, (g) failing to comply fully with all applicable federal, state and local laws, rules, regulations and ordinances, and (h) failing to pay for materials or services furnished by Contractor or to pay any other debt owed to Contractor with respect to the Project. Any amount withheld shall not be paid until the cause for withholding has been removed by Contractor, and satisfactory evidence to that effect has been furnished to Contractor.

**2.9** If, after final payment to the Subcontractor, a claim, lien or charge is asserted against Contractor, the Project and/or the associated real property or funds allocated to the Project, by a subcontractor or supplier of the Contractor, then Contractor shall give the Subcontractor written notice of receiving such claim, lien or charge, that the Subcontractor must take any and all remedial action necessary to remove or resolve the claim, lien or charge whether by paying or bonding such claim, lien or charge. If the Subcontractor fails to provide the Contractor, within ten (10) days of receiving the notice from the Contractor, with written proof of the satisfaction of the claim, lien or charge, or written proof that the claim, lien or charge was bonded, then the Subcontractor shall be required to immediately refund to Contractor an amount equal to one and one-half times the amount of the alleged claim, lien or charge. Contractor shall use those funds, as it deems appropriate, to discharge the lien or to satisfy the claim, and to pay all of Contractor's associated expenses, including, but not limited to, bond premiums and counsel fees in connection with obtaining the discharge and/or satisfaction of the lien. This Article shall survive final acceptance of the Work and final payment to the Contractor.

**2.10** Acceptance of final payment by Subcontractor shall constitute a waiver and release by Subcontractor of all claims for damages or additional compensation of every description and an agreement by Contractor, at its own expense, to defend (if requested by Contractor), indemnify and hold harmless Contractor against any costs (including reasonable counsel fees and expenses) and claims for compensation, damages, liens or charges asserted by Contractor's subcontractors or suppliers as well as any costs (including reasonable counsel fees and expenses) and claims asserted by contractors or others performing work adjacent or contiguous to the Work based, in any part, on an allegation of improper or untimely performance by Subcontractor under this Agreement.

**2.11** Subcontractor acknowledges that the costs of labor (including the use of unionized labor), materials and equipment necessary to perform the Work may increase during the Project. Subcontractor also acknowledges that it may experience difficulty in obtaining the type of labor, materials and equipment required for the Work. Subcontractor also acknowledges that it has carefully examined and assessed, on its own, the Contract Documents, the Project site, and all other factors and considerations that might impact its costs of performing the Work, and that it has not relied on any statement made by Architect or Contractor regarding such matters. Subcontractor also recognizes that the Work may be delayed or disrupted, or accelerated, directly or indirectly, in order to keep pace with, or proceed in sequence with, adjacent or contiguous work by other subcontractors. Subcontractor represents that it has considered these risks and factors in agreeing to the Contract Amount. Thus, Subcontractor shall not make any claim for an increase in the Contract Amount based on increases or escalations in labor (including for the use of unionized labor), material or equipment costs or rates, overhead and general and administrative expenses, even though such claims may be based on delays, disruptions or extensions of the Project Schedule of unanticipated frequency or duration (including, but not limited to, comeback work) resulting in increases, escalations or other impacts

to such costs or expenses. Subcontractor acknowledges that Contractor may order any delay, disruption or re-sequencing of the Work to accommodate the progress or completion of contiguous or adjacent work by others or subcontractor and acknowledges that it shall make no claim of any kind or description for such actions taken by Contractor.

### **ARTICLE 3**

#### **Delays and Damages**

**3.1** Subcontractor shall plan, schedule and prosecute all aspects of the Work diligently and in accordance with the Project Schedule. Subcontractor shall also coordinate the Work with all other work being performed at the Project site to ensure that the Work and all other adjacent or contiguous work proceeds expeditiously and without delay.

**3.2** Should Subcontractor be delayed or disrupted in the prosecution of the Work by any act, omission, neglect or default of Contractor, or of any party for whom Contractor is or may be responsible, or by any damage caused by fire or other casualty, or by Contractor's need to delay, disrupt or re-sequence the Work in order to conform or proceed in sequence with adjacent or contiguous work of others, and the delay or disruption was not caused or contributed to by Contractor, the Project Schedule will be extended for a period equal, in Contractor's estimation, to the time lost solely because of these causes of delay or disruption. No extension of time shall be allowed unless Subcontractor provides Contractor with detailed written notice of the delay or disruption within forty-eight (48) hours of its inception. In no event shall the Subcontractor be entitled to costs, expenses or damages sustained because of these causes of delay, impact or disruption. Subcontractor expressly waives any and all such claim.

**3.3** Notwithstanding the above, Contractor may, without liability of any description, suspend the Work at any time for up to three (3) periods of up to sixty (60) days each upon written notice to Subcontractor. Subcontractor's sole remedy shall be an extension of the Project Schedule for a period equal to the period of suspension. Subcontractor shall promptly cease performing the Work upon receipt of a notice of suspension. Subcontractor shall promptly, within twenty-four (24) hours, resume the Work when directed by Contractor.

### **ARTICLE 4**

#### **Acceleration**

**4.1** Contractor may direct Subcontractor to institute an accelerated program to progress the Work (e.g., increased manpower, overtime, holidays and double-shifts). When so directed by Contractor in writing, Subcontractor shall immediately comply. If, in Contractor's binding opinion, the Work is proceeding in accordance with the Project Schedule and Subcontractor is not in default under any provision of this Agreement, and if the direction to accelerate does not fall under Articles 4.2 or 4.4, Contractor shall reimburse Subcontractor for the actual additional costs for premium-time wages (above straight-time wages) and associated insurance, taxes and fringe benefits, at rates approved by Contractor, incurred for the acceleration program, less an amount reasonably determined by Contractor to be the savings to Subcontractor for avoiding time-related and other costs based on the shortened or accelerated Project duration. Subcontractor shall not be allowed any increase in profit, home office overhead or any items of cost (including inefficiency or impact costs), expense or damages, other than those specified in the preceding



sentence, for such acceleration. Subcontractor shall maintain any and all of the records necessary to determine Contractor's costs for the period of acceleration and shall make those records available to Contractor. From these cost records, Contractor shall determine the appropriate acceleration compensation to Contractor.

**4.2** If Subcontractor fails to perform the Work expeditiously and, in the judgment of Contractor, the Project Schedule, including interim milestone dates, cannot be met without acceleration, Subcontractor shall, at its own expense, work on an accelerated basis, as and when directed by Contractor, until the Work is again proceeding as required by the Project Schedule.

**4.3** Subcontractor shall not, under any circumstances, disobey a written order from Contractor to accelerate the Work. If Subcontractor is ordered to accelerate the Work without an offer of compensation under this Article, Subcontractor shall accelerate the Work, as and when directed by Contractor. To preserve any claim for compensation based upon a direction to accelerate, Subcontractor shall provide a written protest to Contractor within twenty-four (24) hours of the direction to accelerate. Any recovery by Subcontractor pursuant to the written protest shall be limited to the costs set forth in Article 4.1.

**4.4** Subcontractor's rights against contractors or others performing work adjacent or contiguous to the Work to require acceleration, or to recover damages arising from the improper or untimely performance of such other work, shall not be construed as a basis for the imposition of liability on Contractor for any claims based on an alleged failure of Contractor to compel such contractors or others to perform their work in a timely or proper manner. Further, Subcontractor shall not be entitled to compensation for acceleration, notwithstanding Article 4.1, if the acceleration by Subcontractor directed by Contractor is incidental to, and necessary for, Subcontractor to perform the Work in coordination with all other work at the Project and to accommodate Contractor's right under this Agreement to re-sequence the Work based on field conditions and the actual progress of all work at the Project.

## **ARTICLE 5**

### **Subcontractor's Delay**

**5.1** If Subcontractor fails to complete the Work in accordance with the Project Schedule, and/or Contractor's directions intended to ensure compliance with the Project Schedule, Subcontractor shall be liable for Contractor's damages of every description caused by Subcontractor's delay or non-compliance, including, but not limited to, the additional costs, expenses and damages to Contractor resulting from such delay (including, among others, Contractor's extended staff and general conditions costs, lost fee, completion bonus and/or profit), costs to Contractor for other contractors to recapture such delay, costs and/or damages incurred by Contractor, including, but not limited to, increased construction and/or acquisition loan interest, increased real estate taxes, increased carrying costs, Contractor's project management costs, increased insurance premiums, increased building management costs, and all costs, damages and claims incurred with, or owed to, others by Contractor.

**5.2** All amounts owed to Contractor under this Article shall be deducted by Contractor from any amount otherwise due to Subcontractor or, if deductions are not sufficient to compensate Contractor fully, shall be paid to Contractor by Subcontractor upon demand in writing from Contractor.

## **ARTICLE 6**

### **Disputed Work**

**6.1** If Subcontractor believes that any work ordered by Contractor violates the terms of this Agreement or exceeds the Work set forth in this Agreement, Subcontractor shall notify Contractor in writing within twenty-four (24) hours of the issuance of the order. If Contractor determines that the disputed work is not part of the Work, or that for other reasons Subcontractor is entitled to compensation for the disputed work, Contractor shall issue a Change Order to Subcontractor pursuant to Article 7.

**6.2** If Contractor determines that the work is part of the Work required under this Agreement and not extra work, or that the order to perform work is otherwise proper, Contractor may direct Subcontractor to proceed. Subcontractor shall promptly comply with this directive. To preserve its claim for compensation for the work, or for damages resulting from compliance with the directive, Subcontractor shall notify Contractor in writing, before beginning the disputed work, that the disputed work is being performed under protest. Failure to provide written notice to Contractor before the subject work is commenced shall be deemed a waiver and release of any claim for extra compensation or damages for the work. If it is subsequently established that Subcontractor is entitled to compensation for the disputed work, Contractor's damages shall be limited to the amount of compensation to which Subcontractor would have been entitled pursuant to Article 7.

## **ARTICLE 7**

### **Change Orders, Extra Work and Omitted Work**

**7.1** Contractor, without invalidating this Agreement, may order extra work or make changes by altering, adding to or deducting from the work, upon written order signed by Contractor. Contractor shall at any time have the right to order extra work to be performed on (a) Lump Sum Proposal, (b) Unit Prices, or (c) Time and Material Basis. No request for payment for extra work will be honored unless accompanied by such written order. All such work shall be executed under Article 7.5 of this Agreement.

**7.2** At the request of Contractor, Subcontractor shall submit a cost proposal with respect to any proposed extra or omitted work. The cost proposal shall be submitted within five (5) working days of Contractor's request (unless such submission is required upon shorter notice by Contractor) and shall itemize all of the costs of the proposed change, including labor, equipment, material and other costs. The cost proposal shall also include the Unit Prices or Hourly Rates set forth in this Agreement, or both, if requested by Contractor. The cost proposal shall identify specifically any delay to, or acceleration of, the Project Schedule resulting from the contemplated extra or omitted work. Contractor's submission shall not constitute an authorization to proceed with the work, an agreement as to the cost of the work, or an agreement to adjust the Project Schedule.

**7.3** No extra work shall be performed by Subcontractor without a specific written directive from Contractor. Subcontractor shall not be paid for extra work without a specific written directive, unless Subcontractor can demonstrate that the extra work had to be performed immediately and without prior notice

to Contractor in order to prevent casualty to life or property. In this event, Subcontractor shall notify Contractor, as soon as practicable, of all of the circumstances relating to the performance of the extra work.

**7.4** All extra or omitted work that Contractor may direct Subcontractor to perform shall be incorporated into a Change Order. Each Change Order shall adjust the Contract Amount, in the manner set forth in Article 7.5. To the extent that the extra or omitted work affects, in Contractor's judgment, the progress of the Work, the Change Order shall also adjust the Project Schedule. In the event that Contractor and Subcontractor cannot agree on an adjustment to the Project Schedule, Subcontractor shall submit to Contractor, within five (5) working days of Contractor's request, a proposed adjusted Project Schedule incorporating the scheduling effects of the extra or omitted work, together with all other scheduling impacts. After submission of the proposed adjusted Project Schedule, Contractor shall, as part of the Change Order, make an adjustment to the Project Schedule that is reasonably calculated, in Contractor's estimation, to address the delay or acceleration caused by the extra or omitted work.

**7.5** The Contract Amount shall be adjusted by Change Order to compensate Subcontractor for extra work or to compensate Contractor for the value of, or cost savings due to, omitted work. In the case of all items or categories of extra, changed or omitted work, the amount to be added to the Contract Amount, in the case of extra work, and to be deducted from the Contract Amount, in the case of omitted work, shall be determined pursuant to the following:

**7.5.1** By a lump sum mutually agreed to by Contractor and Subcontractor.

**7.5.2** In the event Contractor and the Subcontractor cannot agree to a lump sum, and if Contractor so chooses, by the Unit Prices or Hourly Rates, or both, set forth in this Agreement.

**7.5.3** In the event Contractor and Subcontractor cannot agree to a lump sum and Unit Prices or Hourly Rates are not applicable, or Contractor chooses not to utilize the Unit Prices or the Hourly Rates, by the actual and reasonable costs of (a) the materials and labor (including net fringe benefits, premiums for insurance and excise taxes) required for the extra work, (b) rental costs for plant and equipment (other than small tools) required and approved by Contractor for the extra work, and (c) ten percent (10%) of these costs as full compensation for all other items of cost, expense and profit, including, but not limited to, administration, home office and field overhead, superintendence, materials used in temporary structures, allowances to others for profit and overhead (and all other direct and indirect costs), additional premiums for performance and payment bonds, and the use of small tools. In the event that Contractor agrees, in writing, to have Subcontractor perform the Change Order work on a time and materials basis, Subcontractor shall be required to submit time tickets for each hour charged for the Change Order work (which time tickets must be verified at the end of the work day by an appointed representative of Contractor) and material invoices for any materials, supplies and the like sought to be reimbursed as part of the Change Order. In addition, Subcontractor shall supply payroll information, including, check stubs, cancelled payroll checks, payroll journals and the like in connection with each hour claimed under the verified time tickets for the Change Order. In addition to reimbursement for actual labor and

material costs for a Change Order, Subcontractor shall be entitled to 10% of the aggregate as full compensation for all elements of overhead, profit and any and all indirect costs of charges associated with the Change Order work. In the event of the Subcontractor's failure to comply with the provisions of this Article, including, but not limited to, failing to maintain daily verified time tickets and/or provide material invoices and payroll documentation, Subcontractor agrees that it waives compensation for that part of the Change Order work for which adequate supporting documentation (as determined by reference to this Article) has not been provided.

~~7.5.4 In the event of omitted work only, if Contractor and Subcontractor cannot agree to a lump sum and Unit Prices and Hourly Rates do not apply or Contractor chooses not to use Unit Prices or Hourly Rates, by Contractor's estimation of the savings, or the proportionate value, of the omitted work to the Contract Amount.~~

7.6 Where extra work is authorized under Article 7.5.3, Subcontractor shall maintain all cost records (i.e., material invoices, verified time tickets, etc.) necessary to determine the amount of reimbursable costs for the extra work, and shall make those records available to Contractor upon request. From these cost records, Contractor shall determine the appropriate amount of the Change Order.

7.7 The amount of a Change Order for extra work shall be accepted by Subcontractor as full compensation not only for the performance of the extra work, but also for all other impacts to the costs of Subcontractor in performing the Work, regardless of the scope of the extra work or the aggregate scope of all changes to the Work. Accordingly, any delay and/or time impacts to the Work by any Change Order, or the aggregate of all Change Orders, shall be set forth on the Change Orders. Subcontractor waives and releases any claims for delay and/or time impacts for any Change Order and/or the aggregate of the Change Orders, to the extent such additional time, impact or delay is not stated as part of any Change Order.

7.8 Contractor may direct, in writing, changes in the Work that Contractor reasonably deems to be minor. Subcontractor shall comply immediately. These changes shall not result in adjustments to the Contract Amount or to the Project Schedule.

7.9 All work required by Change Orders and any minor changes in the Work directed by Contractor shall be performed pursuant to the provisions of this Agreement.

7.10 A Change Order shall only be compensation for extra work not otherwise required under this Agreement. If Subcontractor is awarded a Change Order for work already required under this Agreement, Subcontractor agrees that the Change Order shall be voided at Contractor's written request. In such case, the amount under the Change Order applicable to compensation for work already required under this Agreement shall be reduced from the Change Order amount and the Change Order re-issued, but only for the amounts properly classified as extra work. In the case of a re-issued Change Order under this Article, the re-issued Change Order shall replace the previous Change Order (which included the work deemed not extra) and the Contract Amount adjusted accordingly. In the event that the entire Change Order is not extra work, the amount of the Change Order shall be deducted from the Contract Amount.

## **ARTICLE 8**

### **Review of Project Site and Contract Documents**

**8.1** To induce Contractor to award this Agreement, Subcontractor represents that, prior to submitting its proposal to Contractor, Subcontractor has reviewed the Contract Documents, and other related documents, and that Subcontractor visited and familiarized itself with the Project location and the patent, and risk of latent, physical conditions under which the Work would be performed. Based on this review, Subcontractor confirms to Contractor that the Contract Amount and Contract Documents, as such pertain to, and control, the Work, and this Agreement, are sufficient for the intended purpose to accomplish the Work in a first-class manner, and that the Work can be successfully performed and completed fully, safely and legally in accordance with this Agreement and the Contract Documents.

**8.2** The Contract Documents are to remain the property of Contractor. Subcontractor shall exercise the utmost diligence to obtain and review the Contract Documents on a timely basis, and all other information necessary to perform the Work and shall notify Contractor in writing if Subcontractor lacks any documents required to complete the Work fully, properly and as required by the Project Schedule. Furthermore, any document, thing, plan or any other writing, including electronic writings, received, reviewed, sent and/or authored by Subcontractor having any connection to the Work shall be and remain the property of Contractor and given to Contractor, immediately upon demand. Subcontractor shall be responsible for coordination of all shop drawings having to do with the Work.

## **ARTICLE 9**

### **Review of Submittals**

**9.1** Contractor shall review, approval or other appropriate action, all Subcontractor submittals, including shop drawings, product data, samples and requests for information/ clarification of the Contract Documents. Subcontractor shall prepare all necessary shop drawings, product data, samples and requests for information/clarification and shall submit them to Contractor or others, as directed by Contractor, for approval. Subcontractor shall provide to Contractor, for its approval, within five (5) working days of the execution of this Agreement, a proposed schedule setting forth Subcontractor's plan for obtaining the required approvals incident to the Work so as not to delay the Project Schedule. It shall provide in writing that all submissions, including requests for information/clarification, shall be made by Subcontractor sufficiently in advance of the affected work to assure that the Project Schedule is not delayed, allowing a reasonable period of time for review and response under the Contract Documents. Contractor's submittals shall be acted upon within ten (10) working days of receipt by the Architect, provided no other applicable period is specified in the Contract Documents. Contractor shall have no liability for the Architect's failure to act within the time provided under this Article or under the Contract Documents. If resubmission is required, Subcontractor shall prepare and resubmit the appropriate drawings, documents or samples within three (3) working days of the determination requiring resubmission, provided no other applicable period is specified in the Contract Documents.

**9.2** The Work shall conform, where applicable, to the approved shop drawings, product data, material samples and clarifications under the Contract Documents.

**9.3** Clarifications under the Contract Documents or this Agreement shall result in no increase in the Contract Amount and no adjustment to the Project Schedule. If Subcontractor contends that any clarification issued should result in an adjustment to the Contract Amount or to the Project Schedule, Subcontractor shall notify Contractor in writing within forty-eight (48) hours of the issuance of the clarification, unless earlier notification under such circumstances is required under the Contract Documents. Subcontractor shall not proceed with the affected work until and unless authorized by Contractor in writing. In the event that Subcontractor fails to provide timely written notice, Subcontractor shall be deemed to have waived any claim for adjustment to the Contract Amount or Project Schedule, any claim for a Change Order and any claim for other compensation and damages. The provisions of Articles 6 and 7 shall apply to determinations of whether the work resulting from the clarification constitutes extra work, whether any adjustment should be made to the Project Schedule and whether any adjustment should be made to the Contract Amount.

**9.4** Contractor shall conduct inspections to determine the date or dates of substantial completion and the date of final completion. Contractor, in its sole judgment, shall determine the date or dates of substantial completion and the date of final completion.

## **ARTICLE 10**

### **Termination**

**10.1** The Work shall be performed to the standards and satisfaction of Contractor and/or Architect, and the requirements of the Contract Documents. In the event that Contractor considers the Work, or any part of it, to be unsatisfactory, or in the event that Subcontractor fails to make progress in accordance with the Project Schedule, and such failure is not excused under this Agreement, Contractor may provide a written default notice. If Subcontractor does not proceed with the Work to Contractor's satisfaction, curing the noted deficiencies, within three (3) working days of receipt of the written default notice, Contractor may terminate Subcontractor for default.

**10.2** Contractor may immediately terminate this Agreement, in whole or in part, for default, without prior notice or delay, if (a) Subcontractor commits a material breach of this Agreement, (b) Subcontractor fails to obey a lawful and reasonable directive from Contractor under this Agreement, (c) Subcontractor breaches any other contract or agreement with Contractor, (d) a petition under the Bankruptcy Act is filed by or against Subcontractor, (e) Subcontractor makes an assignment for the benefit of creditors, (f) Subcontractor becomes insolvent, (g) Subcontractor fails to comply fully with all applicable federal, state and local laws, rules, regulations and ordinances, or (h) a receiver is appointed for Contractor's property.

**10.3** Upon termination for default, Contractor may assume and complete the Work by whatever means it reasonably deems expedient and proper. In the event that the unpaid balance of the Contract Amount exceeds the costs to Contractor of finishing the Work, the balance of the Contract Amount shall be paid to Contractor, less the items of damages, costs and expenses set forth in Article 10.4. In the event that the costs of completion exceed the unpaid Contract Amount, after adjustment for the items of damages, costs and expenses set forth in Article 10.4, Subcontractor shall immediately pay the difference to Contractor. Subcontractor's obligation to pay Contractor the excess costs of completion, and Subcontractor's liability to Contractor for all other damages under this Agreement, shall survive termination of this Agreement.

**10.4** In the event of a termination for default, Subcontractor shall also be liable to Contractor, where applicable, for all damages, including, among others, extended general conditions and staff costs, lost fee, bonus and profit, counsel fees and costs, and for damages to others for which Contractor may be liable flowing as a consequence from that termination, including, but not limited to, all damages described in Article 5.1 resulting from any delay to the Project Schedule, claims of Contractor for costs and/or damages incurred by Contractor, including, but not limited to, increased construction and/or acquisition loan interest, increased real estate taxes, increased carrying costs, Contractor's project management costs, increased insurance premiums, increased building management costs and costs due to delayed closings, and all claims of other Contractors and third parties, reasonable counsel fees, and all other direct and indirect damages.

**10.5** In the event that Contractor exercises its right to terminate this Agreement for default and to complete the Work, Contractor may take possession of all materials, appliances and equipment located at the Project. Further, Subcontractor shall provide in all subcontracts issued by it in connection with the Work, that upon a declaration of its default under this Agreement, Contractor shall have the right to compel all such subcontractors and suppliers to assume their respective obligations related to the Work, without change in substance or pricing, directly to Contractor upon notice from either, without claim of any description by Subcontractor for their compliance with this Article 10.5, even if Contractor's default of Subcontractor is later determined to be improper. Subcontractor shall incorporate this Article 10.5 into each subcontract issued by it with respect to the Work. In the event it is determined that Contractor improperly or without proper legal grounds terminated this Agreement for default, such termination shall be converted, without further notice, action or delay, to a termination for convenience and Contractor's entitlement shall be limited to the compensation set forth in this Article upon a termination for convenience pursuant to Article 10.6.

**10.6** Upon written notice to Subcontractor, Contractor shall have the right to terminate this Agreement for convenience without the obligation to give any reason or justification. Further, in the event that Contractor declares Subcontractor to be in default and terminates the Agreement upon such basis, and such assertion of default and/or termination is later determined to be improper and/or without lawful justification, such termination for default shall be immediately converted to a termination for convenience under this Article. In the event of a termination for convenience, Subcontractor shall be entitled to payment under this Agreement for the Work properly performed prior to termination, plus all other reasonable, actual and unavoidable direct costs to Subcontractor for demobilizing its field forces, plant and equipment, quitting the Project site and terminating any subcontracts. Subcontractor shall provide all cost records requested by Contractor in connection with seeking reimbursement for costs due to a termination under this Article or Article 10.7. Subcontractor shall receive no compensation other than the amounts set forth above and expressly waives any claim for compensation and damages beyond the amounts provided above including but not limited to anticipated profit on terminated work not performed and overhead. Further, Subcontractor shall, at its own expense, defend (if requested by Contractor), indemnify and hold harmless Contractor from any claims by subcontractors or suppliers based upon a termination under this Article.

**10.7** Subcontractor may terminate this Agreement only if Contractor fails to pay amounts when due under this Agreement and the failure persists for ninety (90) calendar days after Contractor has received a seven (7) days prior written notice from Subcontractor specifying the alleged failure to make payment and asserting such failure as a basis for termination, unless Contractor has questioned or disputed, in writing, the amount or obligation to pay Subcontractor. In the event that Subcontractor terminates this Agreement

under this Article, Subcontractor's measure of damages shall be limited to the amount that Subcontractor has earned under the Agreement through the date of termination, plus all other reasonable and unavoidable direct costs to Subcontractor for demobilizing its field forces, plant and equipment, quitting the Project site, and terminating subcontracts. Subcontractor shall not be entitled to anticipated profit on terminated work not performed and overhead. Further, Subcontractor shall, at its own expense, defend (if requested by Contractor), indemnify and hold harmless Contractor from any claims by subcontractors or suppliers based upon a termination under this Article.

## **ARTICLE 11**

### **Inspection by Contractor**

**11.1** Subcontractor shall provide, at all times, sufficient, safe and proper facilities for inspection of the Work by Contractor, or its representatives, and shall, upon Contractor's request, produce documentation showing the quality of material, equipment and workmanship incorporated into the Work.

**11.2** Whenever an inspection or test, including inspection or testing of partially completed structures or systems, is required by applicable law, code, regulation, industry standard and/or Contractor, Subcontractor shall provide advance written notice to Contractor and shall, when appropriate and at its own expense, arrange for the required inspection or test, unless otherwise directed by Contractor.

## **ARTICLE 12**

### **Defective Work by Subcontractor**

**12.1** If defective work is discovered by Contractor or Architect, Contractor or Architect shall provide written notice to Subcontractor, who shall immediately remove, replace or repair, at its own expense, all work, materials and equipment determined to be unsound, improper or in violation of this Agreement or the Contract Documents. Any failure by Contractor to notify Subcontractor promptly of defective work, materials or equipment shall not relieve Subcontractor of its obligation to remove, replace or repair any unsound, improper or defective work, materials or equipment, nor shall it defeat any claim by Contractor to offset any payments otherwise due Subcontractor for the costs incurred to remove, replace and/or repair Contractor's defective work. Alternatively, Contractor may elect to accept defective work, materials or equipment and adjust the Contract Amount to reflect the difference in the value between the work performed and the Work that should have been performed under this Agreement and the Contract Documents. Contractor's right to assert a claim against Subcontractor based on defective work, materials or equipment, or to require Subcontractor to remove, repair or replace defective work, materials or equipment under applicable guarantees and warranties, shall survive acceptance and final payment even though the defects may have been patent at the time of acceptance and final payment.

## **ARTICLE 13**

### **Defective Work of Others**

**13.1** Subcontractor acknowledges that the proper performance of the Work may depend, in part, on the proper performance of work by other contractors at the Project site. Subcontractor agrees to use all



means necessary to discover defects in the work of other contractors and to report these defects in writing to Contractor before proceeding with contiguous or adjoining work. Subcontractor shall allow Contractor a reasonable time, after notice, to remedy the defective work of other contractors. Subcontractor's failure to provide written notice to Contractor under this Article of readily apparent or reasonably discoverable defective work, prior to beginning the work, shall constitute an acceptance by Subcontractor of the conditions of the Project site and a waiver by Subcontractor of any claim for an adjustment to the Contract Amount or the Project Schedule based upon the conditions of the Project site.

**13.2** Where other contractors are employed at the Project site, Subcontractor shall not hold Contractor responsible for loss, damage or injury caused by the fault or neglect of any of these other contractors and shall look only to these other contractors for recovery for any such damage or injury.

#### **ARTICLE 14**

##### **Supervision**

**14.1** Subcontractor shall furnish a competent, full-time representative on the Project site to supervise the Work and to represent Subcontractor for the purpose of receiving notices, directives, orders and instructions from Contractor. Subcontractor shall, when requested by Contractor, report the general status and progress of the Work and provide written updates based on the Project Schedule. Subcontractor shall have an authorized officer present at all job meetings. Job meetings shall be held on a regular basis, as directed by Contractor. Subcontractor shall maintain a field office on the Project site which it shall move, at its own expense, from time to time, when required by field conditions or when requested to do so by Contractor.

#### **ARTICLE 15**

##### **Unloading and Storage of Materials**

**15.1** All materials and equipment to be furnished by others, but installed by Subcontractor, shall be unloaded, properly protected and stored by Subcontractor and stored by subcontractor in its field office. Subcontractor shall carefully check these items and give receipts for delivery. Subcontractor shall immediately, within forty- eight (24) hours, report to Contractor, in writing, any shortage or breakage of these items. All subsequently discovered shortages and breakage of these items shall be the responsibility of Subcontractor.

**15.2** Subcontractor shall order its own materials and equipment and those furnished by other installed by the subcontractor for the Work in conjunction with the work schedule (timely fashion) and, if delivered to the Project site, shall store these items in enclosures provided at Subcontractor's expense in areas designated by Contractor. Subcontractor shall be fully responsible for these items, and Contractor shall bear no responsibility if any of these items are lost, stolen, vandalized and/or damaged.

**15.3** Subcontractor shall immediately, upon notice from Contractor, move its supplies, materials and equipment to an area of the Project site designated by Contractor. Subcontractor shall be solely responsible for protecting its property from damage, vandalism and pilferage.

## **ARTICLE 16**

### **Risk of Loss**

**16.1** Subcontractor shall be solely responsible for the protection of the Work through final acceptance under the Contract Documents and this Agreement. Further, Subcontractor shall not load or permit any part of the Project to be loaded with a weight that will endanger its structural integrity or damage it in any manner.

**16.2** Subcontractor shall take all measures to effectively secure and protect the Work. Subcontractor shall be liable for, and shall remove, repair or replace, at its own expense, all damage to the Work occurring prior to final completion and acceptance under the Contract Documents and this Agreement, regardless of the cause. Partial occupancy or use of the Project prior to final completion and acceptance shall not cause the risk of loss to pass to Contractor, provided Contractor gives Subcontractor with prior written notice of its intent to occupy and use designated areas of the Project.

## **ARTICLE 17**

### **Work of Other Trades**

**17.1** Subcontractor should anticipate that Contractor may enter into other contracts in connection with the Project. Subcontractor shall afford other contractors' reasonable opportunity for introduction and storage of their materials and equipment for execution of their work, and should anticipate that its operations may, periodically, be delayed or disrupted by the operations of these other contractors. Subcontractor waives and agrees not to assert any claims against Contractor for damages or additional compensation, and only to seek an extension of the Project Schedule in compliance with Article 3.2, based on such delays or disruptions, regardless of extent, duration or frequency.

**17.2** Subcontractor shall, at its own expense, immediately remove, replace or repair all damage caused by the Subcontractor to the work of other contractors at the Project site. If the Subcontractor refuses, Contractor may have the damaged work removed, replaced or repaired, and deduct the associated costs from any payment otherwise due under this Agreement. Subcontractor acknowledges that any failure by Contractor to notify Subcontractor of damage caused by Subcontractor to the work of others shall not relieve Subcontractor of its obligation to remove, replace or repair all damage, nor shall it defeat any claim by Contractor to offset any payments otherwise due Subcontractor for the costs incurred to remove, replace and/or repair Contractor's defective work. If no payment is due, Subcontractor shall immediately pay to Contractor the cost of removing, replacing or repairing the defective work and all other associated costs and damages.

**17.3** Subcontractor shall thoroughly protect the finished work or work-in-progress of other trades from its own operations. Subcontractor shall do all cutting, fitting, patching, preparation and installation for the Work necessary to make all of the work at the Project site join together properly. This work shall be accomplished without delay and in cooperation with other contractors. Subcontractor shall not, however, cut or alter the work of any other contractor, or otherwise disturb the structural integrity of existing or other work, without prior written notice to Contractor, and Contractor's written acceptance of same.

**17.4** Subcontractor acknowledges that at times, Contractor may be unable to determine which Subcontractor caused damage to the work at the Project. When Contractor, exercising due diligence, is unable to determine which Subcontractor caused specific damage to the Project, Subcontractor acknowledges that it shall accept, as binding, Contractor's apportionment of liability (amongst the trades working in the area) for the costs incurred to correct such damage. The apportionment shall be done by Contractor determining each Subcontractor's percentage based upon amounts of their respective trade agreements and then applying that percentage to the cost of repair, replacement or removal of the damaged work.

## **ARTICLE 18**

### **Safety**

**18.1** Subcontractor shall use its best efforts to prevent accidents to workmen engaged in the Work and shall comply with all laws, regulations and codes concerning safety. When so ordered by Contractor, Subcontractor shall stop any part of the Work that Contractor deems unsafe. Subcontractor shall not continue until corrective measures, satisfactory to Contractor, have been taken.

**18.2** Subcontractor shall immediately, within twenty four (24) hours or same day, submit a detailed written incident/ accident report to Contractor, of any and all incidents or accidents arising out of, or in connection with, the performance of the Work and/or the Project, whether on or off the Project site, which cause personal injury, death or property damage, giving full details of the following information: (1) the date of the incident/ accident, (2) specific details describing the incident/accident, (3) the identities of who was involved in the incident/accident and their relation to the Project/Work, (4) the dates of birth and contact information (i.e., address, phone number, email address, etc.) of anyone involved in the incident/accident, (5) whether anyone was injured, and if so, whom, (6) how they were injured, (7) the extent of their injury, (8) the name, position and contact information of any witnesses to the incident/accident, and (9) the name, position, contact information and signature of the person reporting the incident/accident and the supervisor involved. Subcontractor shall also make all other reports of such incidents or accidents, when and with the detail, required by applicable federal, state and local laws and regulations. All oral reports concerning incidents or accidents shall be confirmed within twenty-four (24) hours in writing in the form described under this Article. In every emergency affecting the safety of life, the Work, contiguous work or structures or the building systems, Subcontractor shall take whatever steps are necessary to avoid and minimize such dangers.

**18.3** Subcontractor shall, at its own expense, defend (if requested by Contractor), indemnify and hold harmless Contractor from any claims arising from stoppages of the Work for safety reasons. If Subcontractor fails to adopt necessary corrective measures, Contractor may institute the necessary measures and deduct the associated costs from payments otherwise due to Subcontractor. Contractor's failure to detect and remedy unsafe conditions or practices by Subcontractor shall not relieve Subcontractor of the full responsibility for the consequences of these unsafe conditions or practices.

**18.4** Subcontractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work, including, at a minimum, the precautions and safety programs which are specified in the Contract Documents and any insurance requirements promulgated for the Project. If Subcontractor encounters on site material believed to be polychlorinated biphenyl (PCB), radon gas or

other potentially harmful substances which have not been rendered harmless (and the removal or abatement of which was not contemplated as part of the Work), Subcontractor shall cease operations in the affected area and immediately report the condition to Contractor, and give written confirmation of the report to Contractor within forty-eight (48) hours. Subcontractor shall, thereafter, follow the instructions of Contractor with respect to resumption of operations in the affected area.

## **ARTICLE 19**

### **Indemnity**

**19.1** To the fullest extent permitted by applicable law, Subcontractor shall indemnify, defend (if requested by Contractor), and hold harmless Contractor and each of its parent companies, corporations, subsidiaries and affiliated companies, including joint ventures and partnerships, and their respective agents, consultants, principals, members, partners, directors, officers and employees from and against all claims or causes of action, lawsuits, damages, losses, judgments, liens and expenses (including, but not limited to, reasonable attorney's fees and legal costs and expenses), for personal or bodily injury, sickness, disease or death or injury to or destruction of tangible property including loss of use arising from, or in connection with, the performance of the services by Subcontractor under this Agreement irrespective of the cause and/or type of such injury, cost, damage or loss. This indemnification shall survive completion of the Project and/or earlier termination of this Agreement. With regard to any and all claims or lawsuits against Contractor or its respective parents, subsidiaries or affiliated companies by any employee or independent Subcontractor of Subcontractor or employee of Contractor's subcontractor, consultant or vendor or brought by anyone for whose acts either Subcontractor or its subcontractors, consultants or vendors may be liable, the indemnification obligation under this Agreement shall not be limited in any way by the amount or type of damages, compensation or benefits payable by or for Subcontractor or its subcontractors, consultants or vendors under workers' compensation acts, disability benefit acts or other employee benefit acts. Contractor reserves the right to have separate legal counsel (chosen by Contractor) retained for its defense, which reasonable costs shall be borne by Subcontractor under its defense obligation under this Article.

**19.2** Subcontractor agrees that if it hires any subcontractors, and/or suppliers to perform work at the Project it will do so by way of a written and executed contract which shall be immediately provided to Contractor before such subcontractor, and/or suppliers can perform any work at the Project and shall be subject to Contractor's approval.

**19.3** The obligations of Subcontractor under this Article shall survive acceptance of the Work, termination of this Agreement and/or final payment to Contractor.

## **ARTICLE 20**

### **Clean Up**

**20.1** Subcontractor shall clear and remove all dirt, trash and debris daily caused by the execution of the Work. All the aforementioned debris shall be deposited into contractor supplied containers. Where several contractors are working at the Project site, Contractor's determination as to who is responsible for removal and cleaning particular areas shall be final. If Contractor removes dirt, trash or debris on behalf of

Subcontractor, Contractor shall charge and collect the associated costs from Subcontractor. Upon completion of the Work, Subcontractor shall, at its own expense, remove and clear all unused materials and rubbish, and leave the Project in a clean and proper state, ready for occupancy and use.

## **ARTICLE 21**

### **Taxes**

**21.1** Subcontractor shall pay all social security and other taxes in connection with the performance of this Agreement. Subcontractor shall, when requested by Contractor, furnish evidence showing that these payments have been made. Subcontractor shall also pay all local, state and federal taxes arising out of the Work, whether imposed upon labor, materials, equipment, revenues, profits or any other basis.

## **ARTICLE 22**

### **Insurance**

**22.1.1** See Exhibit F.

## **ARTICLE 23**

### **Assignments and Contracting**

**23.1** Subcontractor shall not subcontract any of the Work without first obtaining Contractor's written approval of the proposed subcontractor, consultant or vendor and without first obtaining Contractor's written approval of the form of the subcontract. Contractor shall have the right to require, upon grounds that it deems reasonable, that Subcontractor not use any subcontractor, consultant or vendor, and Subcontractor shall comply with that request without any additional expense to Contractor. All subcontracts shall fully incorporate the provisions of this Agreement and shall require the subcontractor, and/or suppliers to assume toward Subcontractor all of the obligations that Subcontractor has assumed toward Contractor under this Agreement, including all warranties and guarantees, and to grant to Contractor all of the rights and remedies that Contractor, under this Agreement, has granted to Contractor. This Article is not limited to the Contract Documents describing the portion of the Work to be subcontracted, but shall also include all rights, remedies and obligations under this Agreement.

**23.2** Subcontractor shall not assign, transfer or pledge, in whole or in part, this Agreement or the proceeds of this Agreement. Any attempt to do so shall be null and void and may, at Contractor's option, be treated as a material breach of this Agreement.

**23.3** Subcontractor agrees that Contractor may assign or transfer this Agreement, including, but not limited to, all work and or coordination of same and any warranties or guarantees of workmanship, materials and equipment.

## **ARTICLE 24**

### **Liens and Contract Trust Funds**

**24.1** Subcontractor shall provide all materials and equipment free of liens, claims, chattel mortgages and conditional sales agreements.

**24.2** Subcontractor shall hold the proceeds of this Agreement in trust, as required by Article 3-A of the New York Lien Law, or similar applicable law, and shall use these funds to discharge financial obligations with respect to the Work. This provision shall be interpreted to be consistent with applicable law.

**24.3** To the fullest extent permitted by applicable law, Subcontractor waives, for itself and its subcontractors, and/or suppliers, any statutory and common law right to encumber the Project, funds related to the Project, or the real property upon which the Project is located, by the filing of a mechanic's lien or charge. Further, Subcontractor, its subcontractors, and/or suppliers, if any, shall execute all necessary documentation to effectuate this waiver.

**24.4** If applicable law does not permit the prospective waiver of a mechanic's lien or charge, Subcontractor, for itself and its subcontractors, and/or suppliers, agrees not to file or permit the filing of a mechanic's lien or charge for materials furnished or to be furnished, or for labor performed or to be performed, unless Contractor shall have defaulted in payments to Subcontractor under this Agreement.

**24.5** If a subcontractor and/or supplier performing any of the Work or supplying materials or equipment to the Project files a mechanic's lien or charge, Subcontractor shall, upon Contractor's demand, cause such lien to be canceled and discharged within five (5) working days. If Subcontractor fails to cause the mechanic's lien or charge to be discharged or canceled, Contractor shall have the right to cause the lien or charge to be discharged or canceled and to deduct the associated expenses, including counsel fees and bond premiums, from amounts otherwise due to Subcontractor under this Agreement. If final payment has been made, Subcontractor shall immediately pay to Contractor amounts owed under this Article. Contractor's rights under this Article shall be cumulative, shall survive final payment to Subcontractor, and shall be in addition to Contractor's other rights and remedies under this Agreement and applicable law.

## **ARTICLE 25**

### **Subcontractor's Warranties**

**25.1** Upon completion of the Work and prior to final payment in accordance with Article 2, Subcontractor shall furnish to Contractor a written warranty certificate (Subcontractor's Warranty Certificate), covering the Work and including the warranties and guarantees of subcontractors, consultants, vendors and manufacturers of equipment and materials furnished in connection with the Work. All guarantees and warranties shall inure to the benefit of Contractor and its assigns. All guarantees or warranties shall run for a period of one (1) year, unless a longer period is specified elsewhere in the Contract Documents, and shall begin to run from the date on which the Project is finally accepted by Contractor or the date on which a permanent certificate of occupancy for the Project has been issued (if applicable), whichever occurs last. If any defect in work, materials or equipment appears during the period of the guarantee or warranty, Subcontractor shall immediately repair the defect and remove and replace all affected materials and equipment and shall repair all damage to the Work or the work of others.

## **ARTICLE 26**

### **Labor**

**26.1** Subcontractor shall not employ any labor or construction means that may cause disturbance or stoppage of Work of Subcontractor or of other contractors on the Project site. Subcontractor and other Contractors on site may employ non-union labor to perform the Work. Subcontractor acknowledges that certain demonstrations, rallies, pickets, strikes, lockouts or other labor disturbances (Labor Disturbances) may arise at or near the site during the course of the Project, and agrees that it shall continue to fully, timely and professionally perform the Work under this Agreement notwithstanding such Labor Disturbances.

**26.2** Subcontractor shall resolve, without delay and at its own expense, all labor disputes that may arise during the performance of the Work and conform to the requirements of any and all applicable federal, state and local laws, rules, statutes and ordinances. In the event that Subcontractor fails to do so, Contractor may, upon three (3) working days written notice, terminate this Agreement or any part of this Agreement for default. In the event that Contractor elects to terminate this Agreement for default, the rights, liabilities and obligations of the parties shall be governed by Article 10.

## **ARTICLE 27**

### **Disputes and Litigation**

**27.1** Subcontractor may assert only claims or demands for damages or additional compensation that have been the subject of proper and timely notice under the applicable provisions of this Agreement and the Contract Documents and that have not been waived or released by failure to provide notice or by acceptance of payments. All other claims and demands shall be deemed waived and released by Subcontractor.

**27.2** Unless either party has properly terminated this Agreement pursuant to Article 10, Subcontractor shall continue to prosecute the Work in accordance with the Project Schedule, as adjusted in accordance with this Agreement, regardless of any claims or demands by the parties and regardless of any on-going litigation.

**27.3** Any and all disputes under this Agreement, including, but not limited to, claims or demands for damages or additional compensation, shall be determined solely by litigation. Subcontractor hereby (i) irrevocably consents, for itself and its legal representatives, partners, successors and assigns, to the jurisdiction and venue of New York State Supreme Court, Kings County, for all purposes in connection with any action or proceeding which arises from or relates to this Agreement and (ii) waives its right to a trial by jury. This Agreement shall be governed by the laws of the State of New York.

**27.4** Subcontractor's surety, if any, agrees to join in any litigation against Contractor, agrees to the joinder of any party sought to be joined by Contractor, and agrees to be bound by any resulting award, order, decision or judgment.

**ARTICLE 28**  
**Intangible Property Rights**

**28.1** Subcontractor agrees to pay all patent royalties, licenses and fees required in connection with the Work. Further, Subcontractor shall, at its own expense, defend Contractor (if requested by Contractor), indemnify and hold harmless Contractor from all loss or damage and shall reimburse Contractor for all expenses, including reasonable counsel fees and expenses, incurred on account of the infringement or alleged infringement by Subcontractor of any letters patent or patent rights, trademarks, copyrights or other rights of third parties in intangible or intellectual property.

**ARTICLE 29**  
**Right of Offset**

**29.1** Contractor may offset from payments otherwise due to Subcontractor all damages arising from Subcontractor's breach of this Agreement, all amounts owed to Contractor under this Agreement and all amounts otherwise owed to Contractor. Further, Contractor's rights and remedies under the Agreement shall be cumulative, in addition to whatever other rights and remedies may be available to Contractor at equity and law and shall survive completion and acceptance of the Work.

**ARTICLE 30**  
**Permits**

**30.1** If applicable, Subcontractor shall obtain all permits, licenses and fees required for the proper and lawful prosecution and completion of the Work, except those identified by Contractor, in writing, to be the responsibility of Contractor, and acknowledged by Contractor in writing.

**30.2** Whenever approval of the Work, materials or equipment furnished by Subcontractor is required by any government agency, Subcontractor shall, at its own expense, perform all necessary work to obtain the approval and shall obtain the approval so as not to delay the Project Schedule. All certificates that may be required by governmental agencies shall be obtained promptly by Subcontractor at its own expense. If any government regulations require Subcontractor, or any of its subcontractors, consultants or vendors, to be licensed or approved, this Agreement shall be conditioned upon the receipt by Subcontractor from the proper government authorities of the required licenses or approvals.

**30.3** All materials and equipment incorporated into the Work shall be new, unless otherwise specified in the Agreement, and the installation shall comply in every respect with all applicable laws, rules, regulations and ordinances of all federal, state and local authorities, including, but not limited to, the New York State Department of Labor, the Environmental Protection Agency, the Department of Environmental Conservation, the Occupational Health and Safety Administration, the National Board of Fire Underwriters, NYC Department of Buildings, NYC Landmarks Preservation Commission and of any other authority having jurisdiction over the Work. Subcontractor shall, upon Contractor's request, furnish an affidavit showing compliance with the applicable laws, rules, regulations and ordinances.



**30.4** Subcontractor shall, at its own expense, defend (if requested by Contractor), indemnify and hold harmless the indemnities identified in Article 19.1, against all fines, penalties and costs, including counsel fees and costs, incurred by reason of Subcontractor's breach of this Article. Subcontractor shall also assume all responsibility for, and pay, any violations or notices of violations and resulting fines, penalties or both.

## **ARTICLE 31**

### **Signs**

**31.1** Subcontractor shall not place signs of any nature or description, other than safety signs, in or near the Project site without Contractor's prior written consent.

## **ARTICLE 32**

### **Security**

**32.1** Contractor hereby requires Subcontractor to, at all times, provide and maintain all necessary and proper safeguards in and around the Work in order to protect all persons working, entering or visiting in or near the Project site, and to keep unauthorized persons off or out of the Project site. Subcontractor will immediately notify Contractor if an unauthorized person(s) attempts to enter the Project site.

## **ARTICLE 33**

### **Performance, Labor and Material Payment Bonds**

**33.1** Subcontractor shall furnish separate performance and labor and material payment bonds, naming Contractor as obligees, in penal amounts equal to the Contract Amount. The terms of the bonds and the surety issuing the bonds shall be subject to Contractor's approval. The bonds shall expressly incorporate this Agreement and the Contract Documents to the effect that the surety's obligations and liabilities are co-extensive with those of the Contractor. The surety shall also expressly agree to join in, and to be bound by, any legal action involving Contractor and Subcontractor arising from the Project. Finally, the surety shall also agree that modifications to this Agreement, including the addition or deletion of work, shall not operate to discharge the surety, regardless of the scope, nature or extent of the aggregate modifications to this Agreement.

**33.2** Subcontractor is required by Contractor to provide a labor and material payment bond, Subcontractor shall, on its behalf and on behalf of Contractor, comply with applicable law requiring the public filing of all labor and material payment bonds on private improvements and it shall, at its own expense, defend (if requested by Contractor), indemnify and hold harmless Contractor against any and all damages for loss of any nature (including purely economic loss), arising out of, or resulting from, the failure to comply with such law, including any award of counsel fees to a bond claimant.

#### **ARTICLE 34**

##### **Confidentiality**

**34.1** Subcontractor acknowledges the unique need of Contractor with regard to maintaining the confidentiality of all information, including, but not limited to, this Agreement, the Contract Documents, information related to or concerning Contractor and its affiliates and businesses which is confidential, proprietary or not generally known and cannot be readily ascertained through proper means by persons or entities, and other information generated in connection with the Project by reason of the important need for Contractor's security, privacy of data, proprietary data and systems, etc. (collectively, the Confidential Information). Subcontractor agrees to not divulge any of the Confidential Information concerning the Project to anyone without Contractor's prior written consent, provided that Subcontractor may disclose information as necessary to the appropriate governmental authority in an application for a permit, approval or clearance and to coordinate with other contractors on the Project.

**34.2** During the term of this Agreement and thereafter, Subcontractor shall keep secret and retain in strictest confidence and shall not, without the prior written consent of Contractor, furnish, make available or disclose to any third party or use for the benefit of itself or any third party any Confidential Information.

#### **ARTICLE 35**

##### **Ethical Standards**

**35.1** Subcontractor shall comply with, and observe, all laws, codes, rules, regulations, statutes and ordinances applicable to Subcontractor and the Work, and shall neither confer, nor offer to confer, any financial reward or benefit to any individual, by act or omission, in any way consistent with the intent to influence improperly the conduct of that individual or the faithful discharge of that individual's duties and responsibilities under law.

**35.2** Subcontractor shall not discriminate against anyone, including its own employees, subcontractors, consultants and/or vendors, on the basis of race, creed, age, sex, color, national origin or disability, and shall comply with all applicable federal, state and local non-discrimination laws and regulations and with Contractor's specific regulations and policies against discrimination.

**35.3** Subcontractor shall not permit drug or substance abuse by any of its employees, or any employees of its subcontractors, consultants and/or vendors, and it shall fully and promptly comply, at its own expense, with every rule, regulation and program initiated by Contractor with respect to this subject matter.

#### **ARTICLE 36**

##### **Notices**

**36.1** Notices under the Agreement or pursuant to any law or regulation shall be in writing, unless otherwise required by the specific law or regulation, and shall be sent by overnight mail or by registered or certified mail, return receipt requested, with a copy faxed or emailed to that party on the day of mailing.

To Contractor; Parkview Builders Inc  
236 Broadway, Suite 200  
Brooklyn, New York 11211  
Attn. Juda Klein  
To Subcontractor: Little Washington Fabricators, Inc.  
52 Mill Street  
Christiana, PA 17509  
Attn. Jonas Stoltzfus

#### **ARTICLE 37**

##### **Ambiguities**

**37.1** This Agreement and its component parts, including the Contract Documents, are intended to be complementary and are intended to include all work and other related obligations necessary to construct the Work in a first-class manner, for the Contract Amount, and in accordance with the Project Schedule. Subcontractor shall review this Agreement and the Contract Documents and advise Contractor, prior to the execution of this Agreement, whether any of its parts conflict. Where a conflict in the requirements of the Work exists, Subcontractor shall assume that the more costly and higher quality alternative was intended and shall perform that alternative as part of the Work. Where a conflict exists in the rights and obligations of the parties, Contractor, in its discretion, shall determine which of the conflicting provisions of this Agreement and/or Contract Documents, shall apply.

**37.2** In the event of a conflict, inconsistency or ambiguity between the provisions of this Agreement and any exhibit, attachment or other document incorporated by reference in this Agreement, the provisions of this Agreement shall exclusively control.

#### **ARTICLE 38**

##### **Contractual Relationships**

**38.1** This Agreement shall not be interpreted to create a contractual relationship between Contractor and any party other than Subcontractor and, where applicable, Subcontractor's surety.

#### **ARTICLE 39**

##### **Article Headings**

**39.1** Headings are included for ease of reference and shall not be part of this Agreement.

#### **ARTICLE 40**

##### **Applicable Law**

**40.1** This Agreement shall be governed by the laws of the State of New York, both as to interpretation and performance. Further, the language in this Agreement shall be construed according to its customary

meaning within the construction industry in the New York City metropolitan area. Whenever used, the singular number shall include the plural, and the plural the singular, and the use of any gender shall be applicable to all genders.

#### **ARTICLE 41**

##### **Severability**

**41.1** If any one or more of the provisions of this Agreement are, for any reason, held to be invalid, illegal or unenforceable in any respect, such illegality, invalidity or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

#### **ARTICLE 42**

##### **Modification**

**42.1** This Agreement shall not be modified orally or by course of conduct. Any modification of this Agreement shall be in writing and signed by authorized representatives of Contractor and Subcontractor. Further, Subcontractor shall not make any claim, in any context, that this Agreement, or any of its provisions, has been modified by Contractor's conduct unless Subcontractor shall have first notified Contractor in writing, within forty-eight (48) hours of the subject conduct, of such contention.

#### **ARTICLE 43**

##### **Merger**

**43.1** This Agreement supersedes all prior proposals, letters of intent, quotations, acknowledgments, negotiations, representations, statements, instructions, contracts and/or agreements, oral or written. Any and all services performed by Subcontractor heretofore in anticipation of entering into this Agreement are hereby merged into this Agreement.

#### **ARTICLE 44**

##### **Audit and Recordkeeping**

**44.1** Subcontractor shall maintain, for a period of not less than six (6) years, in accordance with good accounting practices, all financial records (including employee payroll records) in any manner relating to Subcontractor's performance of the Work or this Agreement, and shall, at its own expense, make such records available to Contractor for audit and copying (at Contractor's expense), at Contractor's place of business during ordinary business hours, upon reasonable notice.

#### **ARTICLE 45**

##### **Lenders rights and Documents**

**45.1** Owner's financing agreements with the Lenders may provide for direct enforcement of Contractor's rights under this Agreement by the Lenders, including by assignment, in the event of a default under the financing agreements or other circumstances. Such financing agreements may, among other things, give the Lenders the right to: (i) review the progress of the Work and to approve payments under this Agreement or changes to scope, price or schedule; (ii) confirm that the parties have fully complied with the requirements of this Agreement; (iii) confirm that Subcontractor has fully complied with the financing

agreements for the Project, as such agreements relate to the Work to be performed by Subcontractor; or (iv) require Subcontractor to execute estoppel certificates, attornment agreements and collateral assignments, among other things. Accordingly, the Work performed by Subcontractor shall be performed and furnished to the satisfaction of Contractor and the Lenders, and payment shall be made only to the extent approved by Contractor and the Lenders. Further, Subcontractor agrees to execute all documents required by the Lenders assuring the Lenders of its full and timely completion of its obligations under this Agreement, acknowledging that the Lenders may take assignment of all of Subcontractor's rights, title and interest under this Agreement, and acknowledging the Lenders' other rights consistent with the Lenders' documents.

#### **ARTICLE 46**

##### **Limited Recourse against Others**

**46.1** The obligations of Contractor under this Agreement do not constitute personal obligations of the trustees, officers, partners, direct and/or indirect Contractors, shareholders, employees or agents of Contractor. All persons, including Subcontractor, dealing with Contractor, shall look solely to the assets of Contractor, as the case may be, for satisfaction of any liability, and Subcontractor shall not seek recourse against such trustees, officers, partners, direct and/or indirect Contractors, shareholders, employees or agents or any of their personal assets for such satisfaction.

#### **ARTICLE 47**

##### **Authorization**

**47.1** The persons signing this Agreement, by doing so represent respectively that they are fully authorized to sign this Agreement on behalf of Contractor and Subcontractor. This Agreement may be executed in counterparts. Facsimile and/or .PDF signatures are deemed to be equivalent to original signatures for purposes of this Agreement.

**47.2** The parties hereby acknowledge that they are executing this Agreement freely, voluntarily, and with full knowledge of its terms and consequences, and that each party has been afforded the time and opportunity to consult with an attorney of its choosing concerning the terms of this Agreement, and that each party has, in fact consulted with its attorney concerning the terms of this Agreement. As such, this Agreement shall be deemed equally drafted by each party.

This Agreement is entered into as of the date and year first written above.

#### **Parkview Builders Inc**

By: \_\_\_\_\_  
Juda Klein

#### **Little Washington Fabricators, Inc.**

By: \_\_\_\_\_  
Jonas Stoltzfus

**SCHEDULE OF EXHIBITS**

EXHIBIT A -SCOPE OF WORK

EXHIBIT B -- SCHEDULE

EXHIBIT C - SCHEDULE OF VALUES

EXHIBIT D - FINAL PAYMENT WAIVER OF LIENS

EXHIBIT E - CONDITIONAL PARTIAL PAYMENT WAIVER OF LIENS

EXHIBIT F - INSURANCE REQUIREMENTS SCHEDULE

EXHIBIT G -UNIT PRICES & ALTERNATES

EXHIBIT H --LABOR RATES

EXHIBIT I - GENERAL REQUIREMENTS

EXHIBIT J - DRAWING LIST

## **EXHIBIT A**

### **SCOPE OF WORK**

Furnish and Install material, labor, equipment and supervision to complete the Structural Steel, 18 ga. decking, shear studs, trusses, trellis, trellis slats, egress stairs, railings and miscellaneous steel scope as necessary to accommodate Architectural drawings and specs by DXA Studio dated 05-27-20, Structural drawings by Old Structures Engineering dated 06-18-20, MEP drawings by New York Engineers dated 02-28-20, the Landscaping drawings by LOLA dated 2-28-20 and the Project Manual (specifications) dated 6-1-2020.

The entire scope of work must be completed as per the Construction design documents and the construction Schedule EXHIBIT B attached hereto and made a part hereof. The Scope of Work is intended to define, but not limit, the Work to be performed under this Trade Contract. The Work shall include all labor, material, supervision, equipment, cranes, operators, flagmen, erectors, scaffolding, layout, engineering, shop drawings, permits, accessories, tools, services, transportation, unloading, handling, hoisting, applicable taxes, insurance's, and all other things necessary for the complete performance of the Structural and Miscellaneous Steel Work in strict accordance with this Exhibit A and with the Contract Documents listed above and in Exhibit J. In the event of a conflict between any of the Contract Documents, the more stringent term or obligation as against the Trade Contractor shall apply, in the Owner's sole discretion.

The Trade Contractor is solely responsible for interpreting The New York City Building Code requirements along with all municipal agencies having jurisdiction over this project and that the furnishing and installation of this Trade Contractor's Work conforms to same. Should any design requirements required by the New York City Building Code be greater than that specified in the Contract Documents, or vice versa, the greater requirements shall be applied. Notwithstanding the Architect's approval, the Trade Contractor assumes full responsibility for the design as finally evolved in approved shop drawings and guarantees the performance of same as indicated in Guarantee provisions elsewhere. All work will be performed in compliance with the NYC DOB and Fire Codes. Subcontractor shall furnish and install the following Structural Steel, Miscellaneous Steel and related items, including but not limited to:

### **SPECIFIC TRADE ITEMS**

1. Subcontractor shall provide all required work to furnish and install all Structural Steel, Structural bolts, splice plates, baring plates, moment connections, welding, 18 ga. decking, shear studs, trusses, trellis, trellis slats, egress stairs, railings and miscellaneous steel as shown on the design drawings, as specified in the Project Manual and as described herein. Subcontractor acknowledges that not all Structural steel accessories and miscellaneous steel work is fully shown or detailed on the Contract Documents. Subcontractor shall provide all required items to satisfy the design intent and shall include the development of missing information together with the Architect and Contractor. Subcontractor shall include minor redesign for field conditions. For all Steel members sizing and joining see the Structural drawings S-001 through S-302. For Architectural perspective we have referenced several architectural drawings. Subcontractor acknowledges that they have received all of the project plans and specifications listed above and are fully aware of the scope of work for the project. Subcontractor also acknowledges that they have reviewed the complete set of plans and specs in relation to their scope of work. Including all architectural and structural drawings.

2. The Subcontractor shall furnish and install the new roof deck, trusses and trellis:

- a) Survey existing roof deck and locate and mark all penetrations for the new trusses, structural steel and any other steel member penetrating the roof. Protection of the interior ceiling structure must be in place prior to any openings being made. Subcontractor will coordinate with the other trades to ensure all openings are secure and weather tight at the end of each day.
- b) Furnish and install all structural steel members, beams, trusses, miscellaneous angles, HSSs, trellis, clips, bolts, shear studs and steel decking to erect the new roof deck decking as shown on the design documents. For architectural perspective please see A-300 through A- 401.00.
- c) Furnish and Install 6" Steel C channel to frame and extend the existing slate roof line as shown to form a parapet 42" AFF. See A-504 through A-507 for architectural perspective.
- d) Furnish and Install all trellis HSSs or angles as per A-509.
- e) All Steel members exposed to the elements are to be sand blasted clean, galvanized and painted with the specified coatings by Tnemec. Subcontractor to field repair or touch up and damaged Galvanizing or coatings

3. The Subcontractor shall furnish and install the egress stair tower and all railings:

- a. Furnish and install structural and miscellaneous steel components for the egress stair tower, base plates, stairs, railings, guard rails, balusters, anchor bolts, posts or columns, and canopy. See A-201B, A-202 detail 2.
- b. Furnish and install all guard railings at the roof parapet as see on A-202 detail 2.
- c. Furnish and install all continuous wrapped steel stair handrails, supports, etc... At every stair egress, make-up stairs, etc in accordance with specifications and code compliant, and ADA requirements. Subcontractor shall include all required attachment materials to concrete, masonry and Structural steel as required.

4. The Subcontractor shall furnish and install the New Steel gate:

- a. As depicted on A-201B & A-251, Subcontractor will supply and install a new steel gate based on the historical photos and specifications on the design documents.
- b. The gate must have a locking function with key access.

5. All welding, both in the shop and in the field, shall be performed by certified welders. All field welding shall include paint touch-up.



6. Subcontractor shall include all required comeback for work left out for access of personnel and material such as, masonry walls, etc.
7. Subcontractor shall adhere to the following schedule:
  - \*Stair tower, railings and gate shop drawings 3 weeks from Contract Award
  - \*Structural steel framing, decking, trellis, 4 weeks from Contract Award
  - \*Fabrication (complete and ready for delivery): 8 weeks from receipt of approved as noted on shop drawings for each item.
8. The Subcontractor shall provide for, and include all costs for, off-site storage of all fabricated materials, ready for delivery within 48 hours of notice from Contractor. This Subcontractor shall be reimbursed for fabricated material which has been stored off site, subject to providing proper transfer of Title and Insurance.
9. The Subcontractor includes supervision of the work or items of this Contract that are coordinated by others. The Subcontractor shall layout work on shop drawings and verify same in the field prior to the mason chopping and restoring brick pockets.
10. The Subcontractor includes fire watch during hours he is working.
11. The Subcontractor includes all punching, burning, drilling, tapping, cutting, fitting, or reinforcing of holes for other trades' penetrations or coordination with the Subcontractor's work, prior to approval of the Subcontractor's shop drawings.
12. The Subcontractor shall field measure all his work prior to fabrication unless directed by the Contractor.
13. Subcontractor shall include all sand blasting, cleaning, galvanizing and coating of all exposed scope of work items in this project., including all field touch-ups.
14. All trades subcontractors and its employees will be required to comply with the Projects Site Safety & Site Security Guidelines and Regulations. There will be a ZERO tolerance policy on the project that will be strictly enforced.

**End of Scope**

**EXHIBIT B**  
**SCHEDULE**

Proposed schedule beginning 8/10/20

Shop drawings (AB plans and advanced material) 1.5 weeks we will submit on or before 8/19/20

Shop drawings (misc metals) 2 weeks we will submit on or before 8/24/20

Shop drawings (framing plans, shop details,) 4 weeks we will submit on or before 9/8/20

Approval review by owner (all critical path items following this item will be subject to change pending owner review) Review and revise drawings as required, assuming no design changes, 1 week 9/15/20

Material procurement 2 weeks to allow us to begin fabrication on or before (3 weeks post approval return from owner) 10/06/20

Fabrication duration 4 weeks post previous critical path item date 10/30/20

Galvanizing process will be approximately 1 week. Independent galvanizers schedules vary based on their workload.

Fabricated items that get finish paint will be 3 weeks post galv. 11/6/20

Installation of stair will be (2 weeks) Start 10/5/20.

Installation of structural framing will be 4 weeks (note: stairs and structural framing will be simultaneously with max delay of 2 weeks start 11/2/20

**EXHIBIT C**  
**SCHEDULE OF VALUES**

**CONTINUATION SHEET**

PAGE 2 OF 2 PAGES

APPLICATION NO:  
APPLICATION DATE:

PERIOD TO:  
ARCHITECT'S PROJECT NO:

| A            | B                              | C               | D                                     | E                     | F                                       | G  |         | H                       | I         |
|--------------|--------------------------------|-----------------|---------------------------------------|-----------------------|---|--|---------|-------------------------|-----------|
| ITEM NO.     | DESCRIPTION OF WORK            | SCHEDULED VALUE | WORK FROM PREVIOUS APPLICATIONS (D+E) | COMPLETED THIS PERIOD | MATERIALS PRESENTLY STORED (NOT IN D+E) | TOTAL COMPLETED AND STORED TO DATE (D+E+F) | % (G/C) | BALANCE TO FINISH (C-G) | RETAINAGE |
|              | Shop Drawings                  | 28,875.00       |                                       |                       |   |  |         | 28,875.00               |           |
|              | Shop Labor                     | 127,875.00      |                                       |                       |   |  |         | 127,875.00              |           |
|              | Structural Material            | 330,000.00      |                                       |                       |   |  |         | 330,000.00              |           |
|              | Decking                        | 53,625.00       |                                       |                       |   |  |         | 53,625.00               |           |
|              | Structural Erection            | 155,100.00      |                                       |                       |   |  |         | 155,100.00              |           |
|              | Misc Metal                     | 57,750.00       |                                       |                       |   |  |         | 57,750.00               |           |
|              | Install Deck \$ Stud s         | 20,625.00       |                                       |                       |   |  |         | 20,625.00               |           |
|              | Install Trusses \$ Slats       | 49,500.00       |                                       |                       |   |  |         | 49,500.00               |           |
|              | Install Stair \$ Rails         | 33,000.00       |                                       |                       |   |  |         | 33,000.00               |           |
|              | Install Channels               | 9,900.00        |                                       |                       |   |  |         | 9,900.00                |           |
|              | Punch list & Sign off complete | 183,750.00      |                                       |                       |   |  |         | 183,750.00              |           |
| TOTAL PAGE 1 |                                | 1050000.00      |                                       |                       |   |  |         | 1050000.00              |           |

**EXHIBIT D**  
**SUB-CONTRACTOR FINAL PAYMENT**  
**WAIVER OF LIENS**

Parkview Builders Inc

From Sub Contractor: \_\_\_\_\_

Project/ Property: 306 Rodney Street Brooklyn, New York 11211

Contract Date: 10/08/19

Contractor Payment Request No.: \_\_\_\_\_

Contractor Payment Request Amount: \$ \_\_\_\_\_

**1. The undersigned Sub-Contractor hereby affirms, certifies, represents and warrants as follows:**

- a. The Sub-Contractor Payment Request Amount set forth above, together with all payments previously made to Sub-Contractor in the aggregate amount of \$ \_\_\_\_\_ represents the total and final amount due for all work, services and all other items supplied by or through Sub-Contractor through final completion of the Sub-Contractor's work on the Project including, but not limited to, all work and labor expended or furnished by or through Subcontractor in the installation of the Project; all materials, machinery, fixtures and equipment delivered to the site of the Project and incorporated therein by or through Sub-Contractor; all services furnished or performed by or through Sub-Contractor in the construction of the Project; and all machinery or equipment used, or provided for use, or manufactured in connection with the Project by or through Sub-Contractor. The work items described in this subparagraph 1(a) are hereinafter collectively referred to as "work performed in the construction of the Project."
- b. The Sub-Contractor has not assigned to anyone any claim, any lien, or any right to file or perfect a lien, arising in connection with the Project.
- c. The Sub-Contractor has paid in full all laborers, subcontractors, suppliers, materialmen and others with respect to all work performed in the construction of the Project by or through Sub-Contractor through final completion of the Project, except payments to be made from the Sub-Contractor Payment Request Amount, which amount is sufficient to pay all such persons and entities.

- 2. Waiver and Release.** Subject to payment of the Sub-Contractor Payment Request Amount, the Sub-Contractor does hereby release, waive and quitclaim in favor of Owner, each and

every party with any ownership interest in the Project or building of which it is a part and any and all of their successors and assigns (collectively, the "Released Parties") all liens and claims and rights to lien on the above described property and Project on account of labor or material or both, furnished by or through Sub-Contractor for said property and Project, and the Subcontractor does affirm that full payment has been made for all obligations incurred by the Sub-Contractor to other subcontractors, workmen and materialmen for and with respect to all work or materials or both furnished for the said property and Project, and the Sub-Contractor will indemnify and save harmless Owner (and the Released Parties) from any and all liens and claims of any such persons and pay any and all expenses, legal or otherwise (including without limitation reasonable attorney's fees), incurred by Owner (and/or the Released Parties) in connection therewith. Provided further, it shall be a condition of this waiver that all checks given by Owner to Sub-Contractor as part of the payment of the Subcontractor Payment Request Amount shall be honored and paid in full.

**IN WITNESS WHEREOF**, the Undersigned has caused this Final Waiver of Liens to be executed by its duly authorized officer and its corporate seal hereunto affixed on the \_\_\_\_ day of \_\_\_\_\_, 2020

**SUB-CONTRACTOR:**

**Little Washington Fabricators, Inc.**

Name: \_\_\_\_\_

By: Jonas Stoltzfus

Title: \_\_\_\_\_

SWORN TO AND SUBSCRIBED BEFORE ME

THIS \_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_.

Notary Public \_\_\_\_\_

**EXHIBIT E**

**SUBCONTRACTOR CONDITIONAL PARTIAL PAYMENT**  
**WAIVER OF LIENS**

Parkview Builders Inc

From Sub Contractor: \_\_\_\_\_

Project/ Property: 306 Rodney Street Brooklyn, New York 11211

Contract Date: 10/08/19

Subcontractor Payment Request No.: **App. #** (Progress Payment)

Subcontractor Payment Request Amount:

Cross-reference Contractor Application for Payment No.

1. The undersigned Subcontractor (the "Undersigned"), hereby affirms, certifies, represents and warrants as follows:
  - a. The Subcontractor Payment Request Amount set forth above, together with all payments previously made to Subcontractor in the aggregate amount of \$ \_\_\_\_\_ by \_\_\_\_\_ ("Contractor"), represents the total amount due for all work, services and all other items supplied by or through Subcontractor for the Undersigned's work on the Project to date, including, but not limited to, all work and labor expended or furnished by or through Subcontractor in the installation of the Project to date; all materials, machinery, fixtures and equipment delivered to the site of the Project and incorporated therein by or through Subcontractor to date; all services furnished or performed by or through Subcontractor in the construction of the Project to date; and all machinery or equipment used, or provided for use to, or manufactured in connection with the Project by or through Subcontractor to date. The work items described in this subparagraph 1(a) are hereinafter collectively referred to as "work performed in the construction of the Project to date."
  - b. The Undersigned has not assigned to anyone any claim, any lien, or any right to file or perfect a lien, arising in connection with the Project.
  - c. The Undersigned has paid in full all laborers, subcontractors, suppliers, materialmen and others with respect to all work performed in the construction of the Project by or through Subcontractor to date, except payments to be made from the Subcontractor Payment Request Amount, which amount is sufficient to pay all such persons and entities.

2. Waiver and Release. Subject to payment of the Subcontractor Payment Request Amount, the Undersigned does hereby release, waive and quitclaim in favor of Owner, each and every party with any ownership interest in the Project or building of which it is a part and any and all of their successors and assigns (collectively, the "Released Parties") all liens and claims and rights to lien on the above described property and Project on account of labor or material or both, furnished by or through Subcontractor for said property and Project to date, and the Undersigned does affirm that full payment has been made for all obligations incurred by the Undersigned to subcontractors, workmen and materialmen for and with respect to all work or materials or both furnished for the said property and Project to date, and the Undersigned will indemnify and save harmless Owner (and the Released Parties) from any and all liens and claims of any such persons and pay any and all expenses, legal or otherwise (including without limitation reasonable attorney's fees), incurred by Owner (and/or the Released Parties) in connection therewith. Provided further, it shall be a condition of this waiver that all checks given by Owner to Contractor as part of the payment of the Subcontractor Payment Request Amount shall be honored and paid in full.

**IN WITNESS WHEREOF**, the Undersigned has caused this Partial Waiver of Liens to be executed by its duly authorized officer and its corporate seal hereunto affixed on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

**SUBCONTRACTOR:**

**Little Washington Fabricators, Inc.**

Name: \_\_\_\_\_

By: Jonas Stoltzfus

Title: \_\_\_\_\_

**SWORN TO AND SUBSCRIBED BEFORE ME**

THIS \_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_.

Notary Public \_\_\_\_\_

**EXHIBIT F**

**INSURANCE REQUIREMENTS SCHEDULE**  
**& CERTIFICATES OF INSURANCE**

Job Location: **329-355 Broadway AKA 294-304 Rodney Street 306-312 Rodney Street  
Brooklyn, NY 11211**

1. As a condition of this Subcontract, it is agreed by Subcontractor that, prior to the commencement of the Work, the Subcontractor shall at its sole cost and expense, carry and maintain insurance with a company or companies acceptable to the Owner and/or Contractor and licensed to do business in the state in which the Project is located with a rating of not less than A- VII, as rated in the most currently available "Best's Insurance Guide," providing the Indemnified Parties or any other affiliated entities with the following insurance coverage:

(a) Commercial General Liability (occurrence form)

Commercial General Liability Insurance shall be written in ISO form CG 00 01 10 93 or a substitute form providing equivalent coverage. (Defense limits outside of the policy limits) Coverage shall be provided for liability arising from:

- Premises & Operations, Bodily injury and Property Damage
- Independent Contractors
- Employer's liability (including the tort liability of another assumed in a insured contract) )(policy should not have any restrictive coverage for NY labor law also known as action over coverage).
- Products-completed operations for a minimum of three years after project completion • Personal injury and advertising injury
- Blanket contractual liability, on a primary noncontributory basis, waiver of subrogation (including the tort liability of another assumed in a insured contract)
- Explosion, collapse, & underground operations (no earth movement exclusion for trades involved in such work or any trades using scaffolding )
- Policy shall have no residential limitation or exclusion for apartments.
- Policy shall have no height limitation (coverage must include coverage for at least 16 stories for all subcontractors involved in exterior work)
- Additional insured coverage shall not include any limitations for injuries to your own employees or subcontractors.
- Coverage should not exclude any work subcontracted to others (unless approved by GC/owner) • Railroad exclusion to be removed from the policy, if applicable.

The General Aggregate limit must apply separately to this project (or policy should have a per project endorsement) and coverage should be provided on a primary noncontributory basis.

ISO additional insured endorsement CG 20 10 (11/85) or a substitute providing equivalent coverage ( CG 2010 07/04 – CG 20 37 07/04) shall be used (for ongoing operations and completed operations)

|             |   |
|-------------|---|
| \$2,000,000 | General Aggregate                       |
| \$2,000,000 | Products/Completed Operations Aggregate |
| \$1,000,000 | Each Occurrence                         |



\$50,000 Fire Damage (legal) Liability (per fire)

(b) Worker's Compensation Insurance

Provide statutory worker's compensation benefits as required by New York State Law; (any out of state contractor should provide proof that the workers comp applies to NYS in section 3-A of his policy)

(c) Commercial Automobile Liability Insurance

Limit of not less than \$1,000,000 combined single limits providing coverage against bodily injury liability and property damage liability arising out of the use by or on behalf of the contractor, its agents and employees, while performing the work pursuant to this Agreement, of any owned, non-owned or hired or borrowed motor vehicle or automotive equipment,

(d) Pollution:

One (1) million limits required from all subcontractors involved in pollution work

(e) Excess Liability:

(follow form) - Limits of \$1,000,000 for all subcontractors and limits of \$5,000,000 for contractors engaged in exterior work.

2. All policies of insurance required under the terms of this Exhibit shall cover Contractor, all entities the Contractor is required to indemnify and hold harmless, the Owner all entities the Owner is required to indemnify and hold harmless, and the officers, directors, agents, members, partners, shareholders, employees, successors and assigns of each of them (and any other individuals or entities as Owner may request) (the "Indemnified Parties") as additional insureds, and shall contain a waiver of subrogation in favor of such additional insureds and shall have reasonable and customary deductible amounts, provided that in no event shall such deductible amounts exceed \$25,000 per occurrence. Cost(s) of defense shall not be included in any of the limits of liability required by this Exhibit. In addition, all policies shall be primary and non-contributing, have a per project endorsement and shall contain an agreement on the part of the insurers that in the event of cancellation or modification of the policy in whole or in part, or a reduction as to coverage or amount thereunder whether initiated by the insurer or any insured, the insurer shall give not less than thirty (30) days advance written notice to the Contractor and Owner. All such insurance shall be maintained until the expiration of any applicable statute of limitations, but in any event for a period of not less than three (3) years following completion of the Work.

3. The Subcontractor shall notify the owner/ Contractor if they engage any subcontractors and shall require any/all sub-subcontractors (at all tiers) engaged or employed by the Subcontractor or its sub-subcontractors (at all tiers) providing any work, services, labor, materials or equipment in connection with the performance of the Subcontractor's Work and obligations under this Subcontract to carry and maintain, at all times while engaged in the performance of such services, insurance with limits and coverages not less than those required above, and to furnish such evidence thereof and provide certificates naming all parties per this exhibit.

4. The Subcontractor shall furnish certificates showing that all insurance is being maintained as required herein and upon request a copy of all insurance policies being maintained as required herein (including without limitation, the exclusions and endorsements to each such policy, the Subcontractor's insurance broker or the carrier(s) of such policies certifying that the

copies of the policies being furnished constitute true and complete copies of such policies on or before the date that this Subcontract is executed by the Subcontractor and within ten (10) days after the date of any material change in the terms, exclusions or endorsements of such policies). Upon renewal of any such insurance that expires before the completion of the Subcontractor's Work and obligations under this Subcontract or before the expiration of the Subcontractor's obligation to carry insurance hereunder, renewal certificates or binders shall be provided not less than fifteen (15) days prior to such expiration together with evidence of the payment of premiums thereon.

5. Should the Subcontractor at any time neglect or refuse to provide the insurance required herein, or should such insurance be canceled, Owner/Contractor/construction manager shall have the right, but not the duty, to procure the same and the cost thereof shall be deducted from any amounts due to Subcontractor under this Subcontract.
6. Subcontractor shall purchase and maintain property and equipment insurance against all risk of physical damage to any of his materials, tools, equipment, or other objects, the subcontractor, nor its employees or subcontractors shall have any claim against the Contractor or Owner, or anyone acting for or on behalf of the Owner, to the extent of any claim.
7. Subcontractor shall notify the Contractor, Owner and also notify the Subcontractor's carriers of any injury or occurrence of any claim or any safety violation at the Project and provide immediately the claim numbers and a copy of the claim notice submitted to their workers compensation and general liability carrier.
8. Any and all of the deductibles and premiums associated with the policies providing the insurance coverage required herein shall be assumed by, for the account of, and at the sole risk of subcontractor and all of its subcontractors, not the Owner/General contractor
9. In the event the Subcontractor has in force any insurance coverage with coverages broader and or limits higher than those coverage amounts, and terms specified herein, such broader terms and higher limits shall insure and be available to each Additional Insured, and this Agreement shall be deemed to required such broader terms and higher limits.
10. Such limits and coverages above are minimum limits and not intended to limit Subcontractor's liability under this agreement.

**SUBCONTRACT AGREEMENT RIDER (OWNER/CONTRACTOR AND  
SUBCONTRACTOR)**

The terms, conditions and requirements of this Rider are in addition to the terms, conditions and requirements of the Subcontract Documents. In the event there is any inconsistencies between the terms, conditions or requirements of Subcontract Documents and those of this Rider, the more stringent of the two shall apply and be binding on the Subcontractor and its carrier.

1. **Indemnity.** In consideration of the Contract Agreement, and to the fullest extent permitted by law, the Subcontractor shall defend and shall indemnify, and hold harmless, at Subcontractor's sole expense, the Contractor, all entities the Contractor is required to indemnify and hold harmless, the Owner of the property, and the officers, directors, agents, employees, successors and assigns of each of them, all entities the Owner is required to indemnify and hold harmless from and against all liability or claimed liability for bodily injury or death to any person(s), and for any and all property damage or economic damage, including all attorney fees, disbursements and related costs, arising out of or resulting from the Work covered by this Contract Agreement to the extent such Work was performed by or contracted through the Subcontractor or by anyone for whose acts the Subcontractor may be held liable, excluding only liability created by the sole and exclusive negligence of the Indemnified Parties. This indemnity agreement shall survive the completion of the Work specified in the Contract Agreement.
2. **Insurance.** The Subcontractor shall procure and shall maintain until final acceptance of the Work, such insurance as will protect the Contractor, all entities the Contractor is required indemnify and hold harmless, the Owner, and their officers, directors, agents and employees, all entities the Owner is required indemnify and hold harmless for claims arising out of or resulting from Subcontractor's Work under this Contract Agreement, whether performed by the Subcontractor, or by anyone directly or indirectly employed by Subcontractor, or by anyone for whose acts Subcontractor may be liable. Such insurance shall be provided by an insurance carrier rated "A- VII" or better by A.M. Best and lawfully authorized to do business in the jurisdiction where the Work is being performed.
  - 2.1. The Subcontractor's insurance shall include contractual liability coverage and additional insured coverage for the benefit of the Contractor, Owner and anyone else the contractor/owner is required to name (as set forth in the schedule below) and shall specifically include additional insured coverage for completed operations. The insurance required to be carried by the Subcontractor and any Sub-Sub- Contractors shall be PRIMARY AND NON-CONTRIBUTORY. With respect to each type of insurance specified hereunder, the Contractor's and Owner's insurances shall be excess to Subcontractor's insurance.
  - 2.2. The Subcontractor warrants that the coverage provided under the commercial general liability policy shall be written on an "occurrence" basis with coverage as broad as the Insurance Service Office Inc.'s form and that no policy provisions shall restrict, reduce, limit or otherwise impair contractual liability coverage or the Contractor's, Owner's (or others as required and as listed below) status as additional insured.
  - 2.3. Not less than five (5) days prior to commencement of the Work and until final acceptance of the Work, Subcontractor shall provide Contractor with certificate(s) of insurance evidencing the required insurance coverage with the limits stated below or elsewhere in the Subcontract documents. The Subcontractor shall provide Contractor thirty (30) days written notice of a change or cancellation in coverage. In addition, all insurance policies shall state that the insurer will provide Contractor thirty (30) days prior written notice of a change or cancellation in coverage.
  - 2.4. Unless otherwise stipulated in the Contract Agreement, the Subcontractor shall maintain no less than the limits specified for each of the following insurance coverages:

- a) Commercial General Liability using an industry standard unmodified "occurrence" coverage form including contractual liability with minimum limits of \$1,000,000 each occurrence, \$2,000,000 aggregate with either per project or per location endorsement for property damage and bodily injury;
  - b) Excess (Follow form) – (follow form) - Limits of \$1,000,000 for all subcontractors and limits of \$5,000,000 for contractors engaged in exterior work.
  - c) Comprehensive Automobile Liability insurance with minimum limits of \$1,000,000 combined single limit each accident, including bodily injury and property damage liability;
  - d) Workers' Compensation and disability benefit insurance including Occupational Disease in the minimum amounts as required by the jurisdiction where the Work is performed.
- 2.5. The Subcontractor and his insurer shall waive all rights of subrogation against the Contractor, Owner and any other indemnified party.
- 2.6. In the event subcontractor has in force any insurance coverage with coverages broader and or limits higher than those coverage amounts, and terms specified herein, such broader terms and higher limits shall insure and be available to each Additional Insured, and this Agreement shall be deemed to required such broader terms and higher limits.
- 2.7. Such limits and coverages above are minimum limits and not intended to limit Subcontractor's liability under this agreement.
- 2.8. If Subcontractor engages a Sub-Subcontractor, it is the affirmative duty of the Subcontractor to ensure that any Sub-Subcontractor complies with the insurance and indemnification requirements of this Contract Agreement.

List of Indemnified Parties and Additional Insureds:

**Owner/ Developer:**

The 329 LLC  
236 Broadway -2nd Floor  
Brooklyn, NY 11211

**Contractor/CM:**

Parkview Management Inc.  
236 Broadway -2nd Floor  
Brooklyn, NY 11211

Parkview Builders Inc  
234 Broadway-2nd Floor  
Brooklyn NY 11211

**Owner's Representative:**

CitiScape Builders Group, INC.  
329 Broadway 1<sup>st</sup> floor  
Brooklyn, New York 11211

**Neighbors:**

ST. Paul Evangelical Lutheran Church of Williamsburg, Brooklyn, NY Together with the members of its Church Council (or other governing body), its pastor, its sexton, and all its trustees, officers, directors, and employees.

306 Rodney Street  
Brooklyn, NY 11211

339 Development LLC  
329-341 Broadway Brooklyn, NY 11211

Greater Hudson Bank Its Successors and/or its assigns (Bank for 339 Development LLC) 360  
Route 17M  
Monroe, NY 10950

Job Location:

329-355 Broadway AKA 294-304 Rodney Street 306-312 Rodney Street Brooklyn, NY 11211

Acknowledged by:

Parkview Builders Inc/  
Parkview Management Inc.

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**Little Washington Fabricators, Inc.**

Signature: \_\_\_\_\_

Name: Jonas Stoltzfus

Title: \_\_\_\_\_

**EXHIBIT G**  
**UNIT PRICES & ALTERNATES**

**None**

**EXHIBIT H**  
**LABOR RATES**

**Labor rates**

Foreman \$88/hr                      OT rate \$108/hr

Ironworkers \$78/hr                OT rate \$98/hr

Shop rate \$72                      OT rate \$92/hr

Equipment (going rental rates per unit)

Trucking \$125/hr                OT rate \$145/hr

**EXHIBIT I**  
**GENERAL REQUIREMENTS**

Parties further agree to as follow:

- 1) Means and methods are the Subcontractors responsibility.
- 2) Subcontractor to provide all installations as code compliant at no additional cost to the owner irrelevant of what is shown in the contract documents.
- 3) This Subcontractor must have all the hardware and software necessary to fully participate in utilizing electronic methods for the Project's document control process, including but not limited to Requests for Information [RFI's], Submittals and Shop Drawings, and disbursement of other Project-related documents as determined by Contractor. This primarily consists of having a reliable internet service provider, web browser software such as Microsoft Internet Explorer, available to all project team members that will need access. This project will utilize Procore's ([www.procore.com](http://www.procore.com)) project management and collaboration system for all project documentation. Applicable team members of this Subcontractor will be invited to and are required to create a Procore username (email) and password if they do not already have one. This Subcontractor will be expected to obtain drawings, sketches, RFIs, meeting minutes, coordination drawings, change information, etc. via this application. Contractor will notify subcontractors as relevant items are added. It will be the responsibility of this Subcontractor to regularly check and review updated documents as they are added. Applicable team members of this Subcontractor are required to complete a free, one-hour subcontractor training certification course located at <http://learn.procore.com/procore-certification-subcontractor> within (2) two weeks following contract execution. There will be no cost to this Subcontractor for use of Procore. It is recommended that this Subcontractor provide mobile iOS or Android devices with the Procore App installed to at least one individual on-site to provide real-time access to current posted drawings, specifications, RFIs, submittals, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties
- 4) Utilizing the Procore system is a requirement of this project and Subcontractor agrees to the use of Procore.

**General items included in this contract are as follows, but are not limited to:**

1. Subcontractor shall supply and install all the required materials for this scope of work. Subcontractor shall coordinate and accept all of his own deliveries and be responsible for proper site storage and securing of Subcontractors own materials and equipment.
2. Includes all hoisting, interior scaffolding, bracing as required, for own use per site logistics.
3. Subcontractor shall provide Flagmen, as necessary for smooth operations.
4. Includes all Shop Drawings and As-built drawings.
5. Subcontractor must submit all submittals within two weeks of contract signing. Submittals must be in the format as requested by the CM.
6. Subcontractor shall pay, furnish, and expedite all permits, seals and signoffs.
7. All questions must be submitted in writing as an RFI (form). No verbal questions to be submitted, verbal directions should not be considered binding.



8. Subcontractor shall furnish and install all safety signage included in his scope of work.
9. Subcontractor is to supply and install any and all protection to all areas that may be affected by his work
10. All work must comply with state, city, local and OSHA codes and includes inspection by NYC Agencies.
11. Subcontractor shall provide a "Competent Person" that can identify and foresee hazards according to OSHA and local agencies guidelines.
12. Subcontractor shall provide documents showing the Competent Person complies with appropriate certifications, training documentation or other information specifying why and how said employee meets the requirements of "Competent Person", as defined by OSHA 29 CFR 1926.32(f) and NYCDOB
13. Subcontractor is required to conduct weekly toolbox safety meetings signed by all his employees and should be made available upon request.
14. Subcontractor is required to conduct pre-shift meetings signed by all employees and provide documentation of such to the Construction Manager on a weekly basis.
15. Subcontractor shall maintain a clean working environment and deposit all of their debris in Contractor supplied containers on the site. Subcontractor to notify Contractor if additional containers are needed well in advance of all debris remaining on site causing housekeeping violations.
16. Subcontractor is responsible for cleaning roadside mud and debris caused by truck deliveries from his scope of work.
17. Receive, distribute and coordinate all delivery associated with his scope as per CM directions
18. Ensure safe loading and unloading associated with scope.
19. Owner and CM not responsible for any tools, material stored on job site for theft and or damages
20. Subcontractor shall maintain CM/Owners schedule.
21. All work is as per direction of CM. Subcontractor must submit delivery matrix and update as items/equipment is approved by CM.
22. Subcontractor to ensure all his work is coordinated with CM/General Super and in coordination with other trades.
23. Subcontractor shall attend all weekly job meetings by a competent person directly in charge of job site work, who is able to make company decisions at time of meeting.
24. Subcontractor to attend all job meetings scheduled by CM.
25. Contract includes a full time non-working foreman or superintendent; whose sole responsibility is supervision and coordination.
26. No substitutions of work are allowed without prior approval by CM.
27. No work shall be done on Saturdays or Jewish holidays (this will result in termination of contract). Friday work to end as per the direction of the CM.
28. All work done on Sundays shall be at no extra cost.
29. Price is not subject to increases due to any material increases incurred after signing of contract.
30. 2 weeks look-ahead schedule to be submitted to the PM on first Monday of the Month for the duration of the project, identifying areas of work, material delivery and manpower.
31. Provide all requirements for Quality Assurance / Quality Control
32. Provide all closeout documents: Reports, Warranties, Manuals, Sign-offs, etc.

33. Contractor has visited the site and is aware of the existing conditions and accepts the site "as-is condition
34. This contractor is responsible for all safety for own work
35. This contractor must maintain emergency egress for all adjacent properties and maintain a safe and clean environment
36. Contractor to supply enough manpower, material, and equipment to comply with schedule
37. Contractor to follow all directions from site safety manager
38. Sub-contractor is responsible for properly spreading out material so that imposed loads do not jeopardize the slab or building structure.
39. All workers are required to carry proper certificates for the work which they are performing and are required to maintain their daily maintenance logs.
40. Contractor to inform CM of dangerous hazards.
41. Fulfill all MWBE requirements as needed.
42. ODV (Over dimension vehicles) permits must be supplied to the CM to be stored onsite prior to release of delivery
43. All vehicles making delivery to site must meet all emissions regulations (no matter the size of vehicle)
44. No vehicle (even with a cone or superintendents license displayed) unless making an immediate delivery (no matter the plate type) may park within the construction delivery zone and construction no parking zone; this includes the area cordoned off by Jersey Barriers.
45. Site observances (no work/site access) Friday 1 hour prior to sunset, Saturdays, , Jewish holidays unless specifically confirmed by Contractor provided yearly calendar.

#### Additional Items

- 1) Removal of employees for unruly or inappropriate behavior.
- 2) Out of sequence / comeback work to be done at no additional cost per contractor direction.
- 3) Contractor to be notified of work done offsite and its schedule. Contractor to be provided location and access for inspection
- 4) Relocation of work due to coordination of other work to be at no additional cost.
- 5) Subcontractor responsible for all anchoring, fittings and must obtain prior approval if such items are not on Subcontractors shop drawings.

## EXHIBIT J DRAWING LIST

|        |   |  |   |   |  |  |  |  |
|--------|---|--|---|---|--|--|--|--|
| T-001  | TITLE SHEET                                   |  | X | X |  |  |  |  |
| Z-100  | ZONING SITE PLAN, ZONING ANALYSIS, DIAGRAM    |  | X | X |  |  |  |  |
| Z-101  | ZONING SITE PLAN, SURVEY, DIAGRAM             |  | X | X |  |  |  |  |
| G-100  | GENERAL NOTES                                 |  | X | X |  |  |  |  |
| G-101  | GENERAL NOTES                                 |  | X | X |  |  |  |  |
| G-102  | EGRESS DIAGRAMS                               |  | X | X |  |  |  |  |
| G-103  | EGRESS DIAGRAMS                               |  | X | X |  |  |  |  |
| G-104  | EGRESS DIAGRAMS                               |  | X | X |  |  |  |  |
| C-100  | SITE SURVEY                                   |  | X | X |  |  |  |  |
| A-010  | NORTH EAST ISOMETRIC                          |  | X | X |  |  |  |  |
| A-020  | SITE PLAN                                     |  | X | X |  |  |  |  |
| DM-050 | DEMOLITION & REMOVALS EXISTING ROOF PLAN      |  | X | X |  |  |  |  |
| DM-052 | DEMOLITION & REMOVALS EXISTING 2ND FLOOR PLAN |  | X | X |  |  |  |  |
| DM-060 | WEST BUILDING ELEVATION DEMOLITION            |  | X | X |  |  |  |  |
| DM-061 | NORTH BUILDING ELEVATION DEMOLITION           |  | X | X |  |  |  |  |
| DM-062 | EAST BUILDING ELEVATION DEMOLITION            |  | X | X |  |  |  |  |
| DM-063 | SOUTH BUILDING ELEVATION DEMOLITION           |  | X | X |  |  |  |  |
| A-096  | CELLAR PLAN EXISTING                          |  | X | X |  |  |  |  |
| A-097  | 1ST FLOOR PLAN PROPOSED                       |  | X | X |  |  |  |  |
| A-098  | 2ND FLOOR PLAN PROPOSED                       |  | X | X |  |  |  |  |
| A-099  | 3RD FLOOR PLAN PROPOSED                       |  | X | X |  |  |  |  |
| A-100  | ROOF PLAN PROPOSED                            |  | X | X |  |  |  |  |
| A-101  | ROOF FURNITURE PLAN PROPOSED                  |  | X | X |  |  |  |  |
| A-102  | ROOF TRELLIS PLAN PROPOSED                    |  | X | X |  |  |  |  |
| A-110  | ROOF LIGHTING PLAN PROPOSED                   |  | X | X |  |  |  |  |
| A-120  | ROOF POWER PLAN PROPOSED                      |  | X | X |  |  |  |  |
| A-130  | ROOF FINISH PLAN PROPOSED                     |  | X | X |  |  |  |  |
| A-140  | ROOF SLAB EDGE PLAN PROPOSED                  |  | X | X |  |  |  |  |
| A-200  | WEST BUILDING ELEVATIONS EXISTING & PROPOSED  |  | X | X |  |  |  |  |
| A-201A | NORTH BUILDING ELEVATION EXISTING             |  | X | X |  |  |  |  |
| A-201B | NORTH BUILDING ELEVATION PROPOSED             |  | X | X |  |  |  |  |
| A-202  | EAST BUILDING ELEVATIONS EXISTING & PROPOSED  |  | X | X |  |  |  |  |
| A-203A | SOUTH BUILDING ELEVATION EXISTING             |  | X | X |  |  |  |  |
| A-203B | SOUTH BUILDING ELEVATION PROPOSED             |  | X | X |  |  |  |  |
| A-250  | ENLARGED NORTH BUILDING ELEVATION PROPOSED    |  | X | X |  |  |  |  |
| A-251  | ENLARGED NORTH BUILDING ELEVATION PROPOSED    |  | X | X |  |  |  |  |
| A-300  | ROOF SECTION - EAST WEST 1                    |  | X | X |  |  |  |  |
| A-301  | ROOF SECTION - NORTH SOUTH 1                  |  | X | X |  |  |  |  |
| A-302  | ROOF SECTION - NORTH SOUTH 2                  |  | X | X |  |  |  |  |
| A-303  | ROOF SECTION - EAST WEST 2                    |  | X | X |  |  |  |  |
| A-304  | ROOF SECTION - EAST WEST 3                    |  | X | X |  |  |  |  |
| A-305  | ROOF SECTION - NORTH SOUTH 3                  |  | X | X |  |  |  |  |
| A-306  | ROOF SECTION - NORTH SOUTH 4                  |  | X | X |  |  |  |  |
| A-307  | ROOF SECTION - TRELLIS PRICING                |  | X | X |  |  |  |  |
| A-401  | ENLARGED SECTION NORTH/SOUTH                  |  |   | X |  |  |  |  |
| A-500  | DETAILS - ROOF BUILDUP                        |  | X | X |  |  |  |  |
| A-501  | DETAILS - PARAPET AND SKY BRIDGE              |  | X | X |  |  |  |  |
| A-502  | DETAILS - STRUCTURE PENETRATIONS              |  | X | X |  |  |  |  |
| A-503  | DETAILS - SLAB CONNECTIONS                    |  | X | X |  |  |  |  |
| A-504A | DETAILS - TYPICAL SLATE ROOF EXTENSION        |  | X | X |  |  |  |  |
| A-504B | DETAILS - NORTH ROOF PENETRATION WITH RAILING |  | X | X |  |  |  |  |
| A-505  | DETAILS - TRANSSEPT ROOF CONNECTION           |  | X | X |  |  |  |  |
| A-506  | DETAILS - SLATE ROOF                          |  | X | X |  |  |  |  |
| A-507  | DETAILS - CUSTOM BENCH                        |  | X | X |  |  |  |  |
| A-507A | DETAILS - CUSTOM BENCH                        |  | X | X |  |  |  |  |
| A-508  | DETAILS - LIGHTING INSTALLATION               |  | X | X |  |  |  |  |
| A-509  | DETAILS - TRELLIS                             |  | X | X |  |  |  |  |
| A-510  | DETAILS LABYRINTH SAND BED                    |  | X | X |  |  |  |  |
| A-511  | DETAILS - DRAIN/IRRIGATION                    |  | X | X |  |  |  |  |
| A-512  | DETAILS - EAST STAIR                          |  | X | X |  |  |  |  |
| A-600  | EGRESS STAIR ENLARGED PLANS & SECTION         |  | X | X |  |  |  |  |
| A-601A | EGRESS STAIR DETAIL (HISTORIC)                |  | X | X |  |  |  |  |
| A-601B | EGRESS STAIR ALTERNATE DETAIL                 |  | X | X |  |  |  |  |
| A-800  | SCHEDULES                                     |  | X | X |  |  |  |  |

  

|           |                                |  |   |  |  |  |  |  |
|-----------|--------------------------------|--|---|--|--|--|--|--|
| LANDSCAPE |                                |  |   |  |  |  |  |  |
| L-0-00    | DRAWING LIST AND LOCATION PLAN |  | X |  |  |  |  |  |
| L-0-01    | SYMBOLS AND ABBREVIATIONS      |  | X |  |  |  |  |  |
| L-1-01    | SOILS PLAN                     |  | X |  |  |  |  |  |
| L-2-01    | PLANTING PLAN                  |  | X |  |  |  |  |  |
| L-3-01    | SITE SECTIONS                  |  | X |  |  |  |  |  |
| L-3-01    | SITE SECTIONS                  |  | X |  |  |  |  |  |

  

|            |                                  |  |   |  |  |  |  |  |
|------------|----------------------------------|--|---|--|--|--|--|--|
| STRUCTURAL |                                  |  |   |  |  |  |  |  |
| S-001      | GENERAL NOTES AND SPECIFICATIONS |  | X |  |  |  |  |  |
| S-100      | ROOF FRAMING PLAN                |  | X |  |  |  |  |  |
| S-101      | ROOF DECK FRAMING PLAN           |  | X |  |  |  |  |  |
| S-102      | ROOF TRUSS FRAMING PLAN          |  | X |  |  |  |  |  |
| S-103      | STAIR FRAMING PLANS              |  | X |  |  |  |  |  |
| S-110      | STAIR ELEVATION                  |  | X |  |  |  |  |  |
| S-200      | TYPICAL DETAILS                  |  | X |  |  |  |  |  |
| S-300      | TYPICAL TRUSS ELEVATION          |  | X |  |  |  |  |  |
| S-301      | TRUSS ELEVATION AT DORMER        |  | X |  |  |  |  |  |
| S-302      | TRUSS ELEVATION AT BELL TOWER    |  | X |  |  |  |  |  |

  

|            |   |  |   |  |  |  |  |  |
|------------|---|--|---|--|--|--|--|--|
| MECHANICAL |   |  |   |  |  |  |  |  |
| M-001      | MECHANICAL SYMBOLS LIST ABBREVIATIONS & GENERAL NOTES   |  | X |  |  |  |  |  |
| M-002      | MECHANICAL GENERAL NOTES AND SPECIFICATIONS             |  | X |  |  |  |  |  |
| M-003      | MECHANICAL SPECIFICATIONS                               |  | X |  |  |  |  |  |
| M-101      | FIRST FLOOR MECHANICAL PLAN                             |  | X |  |  |  |  |  |
| M-102      | SECOND FLOOR MECHANICAL PLAN                            |  | X |  |  |  |  |  |
| M-103      | THIRD FLOOR MECHANICAL PLAN                             |  | X |  |  |  |  |  |
| M-104      | ROOF MECHANICAL PLAN                                    |  | X |  |  |  |  |  |
| M-501      | MECHANICAL DETAILS (1 OF 2)                             |  | X |  |  |  |  |  |
| M-502      | MECHANICAL DETAILS (2 OF 2)                             |  | X |  |  |  |  |  |
| M-101      | FIRST FLOOR MECHANICAL PLAN                             |  | X |  |  |  |  |  |
| P-001      | PLUMBING SYMBOLS, ABBREVIATIONS, NOTES & SPECIFICATIONS |  | X |  |  |  |  |  |
| P-002      | PLUMBING SPECIFICATIONS                                 |  | X |  |  |  |  |  |
| DM-101     | PLUMBING DEMOLITION PLAN                                |  | X |  |  |  |  |  |
| P-101      | ROOF PLUMBING PLAN                                      |  | X |  |  |  |  |  |
| P-501      | PLUMBING DETAILS  |  | X |  |  |  |  |  |
| P-600      | PLUMBING SCHEDULE & STORM RISER DIEAGRAM                |  | X |  |  |  |  |  |